

INTER-AMERICAN COURT OF HUMAN RIGHTS
CASE OF DIAL *ET AL.* V. TRINIDAD AND TOBAGO
JUDGMENT OF NOVEMBER 21, 2022
(Merits and reparations)

In the case of *Dial et al. v. Trinidad and Tobago*,

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

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I INTRODUCTION OF THE CASE AND CAUSE OF ACTION

1. *The case submitted to the Court.* On June 23, 2021, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) submitted to the jurisdiction of the Inter-American Court the case of “Kevin Dial and Andrew Dottin” against the Republic of Trinidad and Tobago (hereinafter “the State” or “Trinidad and Tobago”). According to the Commission the case relates to the alleged international responsibility of the State for the imposition of the mandatory death penalty, the anomalies that occurred in the context of the detention and trial of the alleged victims, and their detention conditions. Specifically, the Commission submitted to the jurisdiction of the Inter-American Court the facts that had occurred between May 28, 1991, and May 26, 1999, when the American Convention was in force for Trinidad and Tobago.¹ The Commission concluded that the aforementioned facts violated the rights recognized in Articles 4(1), 4(2), 4(6) (right to life), 5(1), 5(2) (right to personal integrity), 7(5) (right to personal liberty), 8(1) and 8(2) (judicial guarantees) and 25(1) (judicial protection) of the American Convention, in relation to Articles 1(1) (obligation to respect rights) and 2 (domestic legal effects), to the detriment of Kevin Dial and Andrew Dottin.

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

a) *Petition.* On April 29, 1999, Slaughter and May lodged the initial petition before the Commission. However, in a letter dated August 18, 1999, the Commission was informed that Herbert Smith LLP would represent the alleged victims.

b) *Precautionary measures before the Commission and provisional measures before the Court.* Together with the initial petition, the petitioners asked the Commission to adopt precautionary measures to avoid irreparable harm to Kevin Dial and Andrew Dottin owing to the possibility that the death penalty would be executed. On May 11, 1999, the Commission granted the request for precautionary measures. However, in the absence of any response to this requirement from the State, on May 19, 1999, the Commission submitted a request for provisional measures to the Court. On May 27, 1999, the Court ordered, *inter alia*, the expansion of the provisional measures ordered in the *Matter of James et al.*, and required the Republic of Trinidad and Tobago “to take all measures necessary to preserve the lives of [...], Kevin Dial, Andrew Dottin [and another six individuals] so as not to hinder the processing of their cases before the inter-American system.”² Furthermore, in its orders of August 16, 2000,³ November 24, 2000,⁴ September 3, 2002,⁵ December 2, 2003,⁶ February 28, 2005,⁷

¹ On May 26, 1998, Trinidad and Tobago denounced the American Convention on Human Rights. In accordance with Article 78 of this instrument, the denunciation entered into force one year later; that is, on May 26, 1999.

² *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of May 27, 1999. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_09.pdf

³ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of August 16, 2000. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_12.pdf

⁴ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of November 24, 2000. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_13.pdf

⁵ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of September 3, 2002. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_15.pdf

⁶ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of December 2, 2003. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_16.pdf

⁷ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures.* Order of the Inter-American Court of Human Rights of February 28, 2005. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_17_ing.pdf

and April 3, 2009,⁸ the Court decided to maintain the said measures. Finally, on May 14, 2013, the Court decided to lift the provisional measures adopted in favor of Messrs. Dottin and Dial and another five individuals on learning that, by a decision of the High Court of Trinidad and Tobago of August 15, 2008, the death sentences imposed in their cases had been commuted to life imprisonment.⁹

- c) *Admissibility Report*. On July 21, 2011, the Commission adopted Admissibility Report No. 83/11, in which it concluded that the petition was admissible.¹⁰
- d) *Merits Report*. On November 19, 2020, the Commission adopted Merits Report No. 331/20, under Article 50 of the Convention (hereinafter “the Merits Report” or “Report No. 331/20”), in which it reached a series of conclusions and made several recommendations to the State.
- e) *Notification to the State*. The Merits Report was notified to the State on March 23, 2021, and it was granted two months to provide information on compliance with the recommendations. According to the Commission, the State failed to send any report or to request a suspension of the time frame granted.

3. *Submission to the Court*. On June 23, 2021, the Commission submitted to the jurisdiction of the Inter-American Court the facts and conducts described in the Merits Report that violated the alleged victims’ rights and that had taken place between May 28, 1991, and May 26, 1999, when the American Convention was in force for Trinidad and Tobago, “owing to the need to obtain justice and reparation.”¹¹

4. *The Inter-American Commission’s requests*. Based on the foregoing, the Commission asked the Court to declare the international responsibility of the State for the violations indicated in its Merits Report that had occurred between May 28, 1991, and May 26, 1999. The Commission also asked the Court to order the State to adopt measures of reparation, and these are described and analyzed in Chapter VII of this judgment. The Court notes with concern that, more than 22 years elapsed between the lodging of the initial petition before the Commission and the submission of the case to the Court.

II PROCEEDINGS BEFORE THE COURT

5. *Notification of the representatives and the State*. The Court notified the Commission’s submission of the case to the representatives of the alleged victims (hereinafter “the representatives”)¹² and to the State on October 15, 2021.

6. *Brief with pleadings, motions and evidence*. On December 20, 2021, the representatives submitted to the Court their brief with pleadings, motions and evidence (hereinafter “pleadings and

⁸ *Cf. Matter of James et al. with regard to Trinidad and Tobago. Provisional measures*. Order of the Inter-American Court of Human Rights of April 3, 2009. Available at: https://www.corteidh.or.cr/docs/medidas/james_se_18.pdf

⁹ *Cf. Matter of Dottin et al. with regard to Trinidad and Tobago. Provisional measures*. Order of the Inter-American Court of Human Rights of May 14, 2013. Available at: https://www.corteidh.or.cr/docs/medidas/dottin_se_01.pdf

¹⁰ This was notified to the parties on July 27, 2011.

¹¹ The Commission appointed Commissioner Edgar Stuardo Ralón Orellana and Executive Secretary, Tania Reneaum Panszi, as its delegates before the Court. It also appointed Marisol Blanchard Vera, then Deputy Executive Secretary, the Commission’s Executive Secretariat experts, Jorge Humberto Meza Flores and Analía Banfi Vique, and legal consultant Thalassa Cox, as legal advisers

¹² The alleged victims are represented by the legal firm of Herbert Smith Freehills, LLP, London.

motions brief"). The representatives were in substantial agreement with the Commission's allegations and asked the Court to declare the international responsibility of the State for the violation of the articles of the American Convention indicated by the Commission. Additionally, they asked that the Court establish the State's responsibility for the violation of Articles 17 (rights of the family), 19 (rights of the child) and 24 (right to equal protection) of this instrument.

7. *Answering brief.* The State did not appoint agents for this case and did not present a brief answering the submission of the case and the Merits Report of the Inter-American Commission, or the pleadings and motions brief of the representatives. The Court recalls that, according to article 27 of the Rules of Procedure, "[w]hen a party fails to appear in or continue with a case, the Court shall, on its own motion, take such measures as may be necessary to complete the consideration of the case."

8. *Final written procedure.* In an order of June 2, 2022, the President of the Court, in exercise of his authority under Article 50(1) of the Rules of Procedure, decided not to call for a public hearing in this case and to require the statements of the two alleged victims and the expert opinion of Douglas Mendes QC to be forwarded by affidavit.¹³ Also, following a request by the Commission, it ordered that the expert opinion of Desmond Allum in the *case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*¹⁴ be transferred to the instant case, as documentary evidence.

9. *Final written arguments and observations.* On September 5, 2022, the representatives submitted their final written arguments and the Commission presented its final written observations. The State did not present final written arguments. The representatives forwarded two annexes with their final written arguments. Neither the State nor the Commission made any observations in this regard.

10. *Ex officio evidentiary procedures.* In a note of the Secretariat of September 30, 2022, issued on the Court's instructions, and pursuant to Article 58 of the Court's Rules of Procedure, the Court, *ex officio*, required the State and the representatives to submit additional documents as helpful evidence.¹⁵ On October 14, 2022, the representatives sent a letter indicating that they had been unable to obtain any additional documentation; while the State failed to respond to this request.

11. *Deliberation of the case.* The Court deliberated on this judgment on November 14 and 21, 2022, in a virtual meeting during its 154th regular session.

III JURISDICTION

12. Trinidad and Tobago ratified the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") on May 28, 1991. That same day, the State accepted the contentious jurisdiction of the Court.

¹³ *Cf. Case of Dial et al. v. Trinidad and Tobago.* Order of the President of the Inter-American Court of Human Rights of June 2, 2022. Available at: https://www.corteidh.or.cr/docs/asuntos/dial_dottin_02_06_22_ing.pdf

¹⁴ *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, reparations and costs.* Judgment June 21, 2002. Series C No. 94.

¹⁵ In particular, the Court requested the following documents: (i) all the documents relating to the detention of Messrs. Dial and Dottin and, in particular but not limited to: any record of their arrest and any document notified to the alleged victims at the time of their arrest; (ii) all the documents relating to the preliminary inquiry; (iii) all the documents relating to the appellate proceedings before the Court of Appeal of Trinidad and Tobago (remedies of appeal, and a transcript of the hearing before that court), and (iv) all the claims, complaints, requests or remedies filed before the domestic authorities denouncing the alleged violations of due process, as well as the possible response of those authorities.

13. On May 26, 1998, Trinidad and Tobago denounced the Convention. This denunciation came into effect one year later, on May 26, 1999, as stipulated in Article 78 of the American Convention. However, the Court recalls that the second paragraph of this article establishes that a denunciation "shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations and that has been taken by that State prior to the effective date of denunciation."¹⁶ Moreover, article 43 of the Vienna Convention on the Law of Treaties (which codifies customary international law), establishes that the denunciation of a treaty "shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty."¹⁷

14. The Court notes that most of the facts alleged in the application submitted in this case took place in the years between the State's ratification and denunciation of the Convention – specifically between May 28, 1991, and May 26, 1999 – with the exception of some facts relating to the criminal proceedings against the alleged victims. Taking into account the considerations in the preceding paragraphs, the Court reaffirms its full jurisdiction *ratione temporis* to hear this case and to deliver judgment based on the provisions of Articles 62(3) and 78(2) of the Convention.

15. Even though the Inter-American Court has full jurisdiction to hear this case, the State did not participate in these proceedings (*supra* para. 7). Despite this, the Court – as any other treaty body with jurisdictional functions – has the inherent power to determine the scope of its own jurisdiction (*compétence de la compétence*). Thus, it reiterates that, when interpreting the object and purpose of the American Convention in light of the general rules for the interpretation of treaties contained in article 31(1) of the Vienna Convention on the Law of Treaties, the Court must act in a manner that preserves the integrity of the mechanism established in Article 62(1) of the American Convention, in exercise of the authority conferred on it by Article 62(3) of this instrument. It would be inadmissible to render the Court's jurisdictional function ineffective and, thereby, also the human rights protection system established by the Convention.¹⁸ A State's lack of activity before the international jurisdiction is contrary to the object, purpose and spirit of the American Convention and its collective safety mechanism.¹⁹

16. Consequently, and based on the temporal framework of the facts specifically submitted to the Court by the Commission (*supra* para. 4), the Court will examine the alleged violations of the American Convention that occurred between May 28, 1991, and May 26, 1999, and their subsequent effects.²⁰

¹⁶ For further development of the interpretation of this article on denunciation, see: *The Obligations in Matters of Human Rights of a State that has Denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(I), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States)*. Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 59 to 65.

¹⁷ Vienna Convention on the Law of Treaties of May 23, 1968, A/CONF.39/27 (1969), 1155 UNTS 331.

¹⁸ Cf. *Case of Hilaire et al. v. Trinidad and Tobago. Preliminary objections*, paras. 82 and 84; *Case of Benjamin et al. v. Trinidad and Tobago. Preliminary objections*, paras. 73 to 75; *Case of Constantine et al. v. Trinidad and Tobago. Preliminary objections*, paras. 73 to 75, and *Case of Caesar v. Trinidad and Tobago. Merits, reparations and costs*, paras. 8 and 9.

¹⁹ Cf. *Case of Caesar v. Trinidad and Tobago. Merits, reparations and costs*, *supra*, para. 38.

²⁰ The Court recalls that the organs of the inter-American protection system are authorized "to continue processing petitions and contentious cases related to alleged violations of the American Convention due to internationally wrongful acts committed prior to the denunciation taking effect. Thus, the Commission and the Inter-American Court may examine, within the framework of the system of individual petitions and contentious cases, an internationally wrongful act committed by a State that has denounced the Convention, even after the denunciation produces effects: (i) for acts or omissions before and up to the date on which the denunciation takes effect; (ii) for acts of a continuous nature that commenced before the date on

IV EVIDENCE

A. Admissibility of the documentary evidence

17. The Court received documentation submitted as evidence by the Commission and by the representatives and, as in other cases, this is admitted in the understanding that it was presented at the appropriate procedural moment (Article 57 of the Rules of Procedure).²¹

18. The Court notes that, together with their final written arguments, the representatives presented two annexes corresponding to two judgments handed down by the Judicial Committee of the Privy Council on May 16, 2022. However, the Court also notes that the said annexes refer to facts that are subsequent to the presentation of the representatives' pleadings and motions brief. Accordingly, the annexes are admitted under Article 57(2) of the Rules of Procedure.

B. Admissibility of the testimonial and expert evidence

19. The Court deems it pertinent to admit the statements provided by affidavit,²² insofar as they are in keeping with the purpose defined by the President in the order requiring them.²³

V FACTS

20. Before determining the facts, the Court must refer to the impact of the State's lack of procedural activity due to its failure to take part in these proceedings. Procedural inactivity does not give rise to a sanction against the parties, strictly speaking, or affect the evolution of the proceedings; rather, when a party freely decides not to exercise its right of defense fully, or not to execute procedural actions that are in its interest, this may eventually prejudice it.²⁴ In this regard, Article 41(3) of the Rules of Procedure should be recalled which establishes that the Court "may consider those facts that have not been expressly denied and those claims that have not been expressly controverted as accepted." In other cases, the Court has considered that, when the State has not answered the application specifically, it may presume that the facts on which it has remained silent are true,

which the denunciation takes effect, such as in cases of enforced disappearance of persons, or (iii) for "continuous or manifest" effects of acts that predate the moment in which the denunciation takes effect." Cf. *The Obligations in Matters of Human Rights of a State that has Denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(I), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States)*. Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 77.

²¹ The documentary evidence should be presented, in general and pursuant to Article 57(2) of the Rules of Procedure, together with the briefs submitting the case or with pleadings and motions, or with the answering brief, as applicable, and evidence forwarded outside these procedural opportunities is inadmissible, subject to the exceptions established in the said Article 57(2) of the Rules of Procedure (namely, *force majeure*, grave impediment) or if it relates to a supervening fact – that is, one that occurred after the said procedural moments. Cf. *Case of the Barrios Family v. Venezuela. Merits, reparations and costs*. Judgment of November 24, 2011. Series C No. 237, paras. 17 and 18, and *Case of the National Federation of Maritime and Port Workers (FEMAPOR) v. Peru. Preliminary objections, merits and reparations*. Judgment of February 1, 2022. Series C No. 448, para. 35.

²² The Court received the affidavits made by the alleged victims Kelvin Dial and Andrew Dottin, as well as that of expert witness Douglas Mendes QC, all proposed by the representatives.

²³ The purpose of all these statements was established in the order of the President of the Inter-American Court of June 2, 2002. Available at: https://www.corteidh.or.cr/docs/asuntos/dial_dottin_02_06_22_ing.pdf

²⁴ Cf. *Case of Ivcher Bronstein v. Peru. Merits, reparations and costs*. Judgment of February 6, 2001. Series C No. 74, paras. 80 and 82; *Case of the Constitutional Court v. Peru. Merits, reparations and costs*. Judgment of January 31, 2001. Series C No. 71, paras. 60 to 62, and *Case of Caesar v. Trinidad and Tobago, supra*, para. 37.

provided that consistent conclusions can be inferred from the evidence presented during the proceedings.²⁵ In application of these criteria, before reaching a conclusion on the facts, the Court must examine all the evidence and arguments submitted to its consideration by the Commission and the alleged victims' representatives, as well as any other documentary or other type of evidence that may be relevant in this case and that has been obtained by the Court itself.²⁶

21. That said, in this chapter, based on the factual framework submitted to its consideration by the Inter-American Commission, the Court will establish the facts of the case in relation to the following aspects: (a) the legal framework at the time of the facts; (b) the criminal proceedings against Messrs. Dial and Dottin; (c) the appeals and the subsequent commutation of the death sentence to life imprisonment, and (d) the alleged detention conditions during their pre-trial detention and subsequent imprisonment.

A. Legal framework at the time of the facts

22. Article 5 of the Constitution of Trinidad and Tobago establishes the following:

RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

5(1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognised and declared.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not – [...] (b) impose or authorise the imposition of cruel and unusual treatment or punishment; [...].²⁷

23. Furthermore, at the time of the facts of this case, Chapter 11:08, article 4 of the Offences Against the Person Act established that “[e]very person convicted of murder shall suffer death.”²⁸

B. The criminal proceedings against Messrs. Dial and Dottin

24. On February 20, 1995, at 2:50 a.m., two attackers entered the apartment of S.B., when his girlfriend and his brother, J.B., were also present. On entering, the attackers fired seven shots at J.B. and at S.B.'s girlfriend. J.B. died the following day as a result of his wounds. Before he died, in the presence of his brother, S.B., he identified “Maxwell and Peter” as the men who had shot him, without being able to make a formal statement before the authorities.²⁹ Following the filing of the corresponding complaint, on February 24, 1995, Messrs. Dial (known as “Peter”³⁰) and Dottin (known as “Maxwell”³¹) were arrested and charged with the murder of J.B. On February 28, 1995, the victim's

²⁵ Cf. *Case of Velásquez Rodríguez v. Honduras. Merits*. Judgment of July 29, 1988. Series V. No 4, para. 138; *Case of Godínez Cruz v. Honduras, Merits*. Judgment of January 20, 1989. Series V. No 5, para. 144; *Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala, Merits*. Judgment of November 19, 1999. Series C No. 63, para. 68; *Case of Hilaire, Constantine, Benjamin et al. v. Trinidad and Tobago, supra*, para. 67.

²⁶ Cf. *Case of Caesar v. Trinidad and Tobago, supra*, para. 39.

²⁷ Constitution of Trinidad and Tobago, article 5.

²⁸ Offences Against the Person Act, article 4.

²⁹ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, pp. 2 and 3 (evidence file, folios 444 and 445). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 6 (evidence file, folio 4).

³⁰ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, p. 2 (evidence file, folio 444). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 1 (evidence file, folio 3).

³¹ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, p. 2 (evidence file, folio 444). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 1 (evidence file,

brother identified Messrs. Dial and Dottin as the men who had fired the shots.³² They both denied that they had taken part in the incident.³³

25. On January 21, 1997, following a four-day trial, a jury found Messrs. Dial and Dottin guilty of the crime of murder and the Fourth Criminal Court, Port of Spain, sentenced them to the mandatory death penalty.³⁴ The evidence on which they were convicted was the statement made by the victim's brother in which he identified Messrs. Dial and Dottin as the perpetrators of the attack.³⁵

C. Appeal filed and subsequent commutation of the sentence

26. Messrs. Dial and Dottin filed an appeal against the judgment of January 21, 1997. On October 16, 1997, the Court of Appeal of Trinidad and Tobago rejected the appeal and confirmed the guilty verdict.³⁶ Subsequently, the alleged victims filed an appeal before the Judicial Committee of the Privy Council arguing, *inter alia*, that there were discrepancies in the ballistics report. On June 4, 1998, they provided a new ballistics report according to which the weapon that had been considered material evidence of the murder had, in fact, not been used in the attack.³⁷ That appeal was dismissed on April 28, 1999.³⁸

27. Following the entry into force of the denunciation of the American Convention, Messrs. Dial and Dottin filed other appeals to obtain a review of their conviction, but these were also rejected. The Court is aware that, on June 13, 2005, the alleged victims filed a constitutional motion³⁹ as a result of the ruling of the Judicial Committee of the Privy Council on July 7, 2004, in the case of *Charles Matthew v. The State* in which the Committee determined that the imposition of the mandatory death penalty was incompatible with the prohibition of inhuman or degrading punishment established by the Constitution of Trinidad and Tobago. The Court underscores that, in order to reach the conclusion that the imposition of the mandatory death penalty was incompatible with the prohibition of inhuman or degrading punishment established by the Constitution of Trinidad and Tobago, the Judicial Committee of the Privy Council accorded significant relevance to the fact that Trinidad and Tobago had been a member of the Organization of American States since March 14, 1967, and that, as such, it was obliged to respect and to ensure the rights contained in the American Declaration on the Rights

folio 3).

³² Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, p. 4 (evidence file, folio 446). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, paras. 2, 3, 10 and 11 (evidence file, folios 3, 4 and 6).

³³ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, p. 5 (evidence file, folio 447). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 2 (evidence file, folio 4).

³⁴ Cf. Transcript of the trial before the Fourth Criminal Court, Port of Spain, from January 15, to 21, 1997, p. 36 (evidence file, folio 440). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 1 (evidence file, folio 3).

³⁵ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997, p. 5 (evidence file, folio 447). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 2 (evidence file, folio 3).

³⁶ Cf. Court of Appeal of Trinidad and Tobago, Judgment of October 16, 1997 (evidence file, folios 443 and ff). See also, Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 17 (evidence file, folio 7).

³⁷ Cf. Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 17 (evidence file, folio 7).

³⁸ Cf. Judicial Committee of the Privy Council, *Dial and Another v. The State*, Judgment of February 14, 2005, para. 18 (evidence file, folio 7).

³⁹ Constitutional motion of June 13, 2005 (evidence file, folios 1814 to 1818), and conservatory order of June 13, 2005 (evidence file, folios 1820 and 1821).

and Duties of Man. It also pointed out that the country had ratified the American Convention on Human Rights and had accepted the contentious jurisdiction of the Inter-American Court. Furthermore, the Committee noted that, both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, and also the United Nations Human Rights Committee had determined that the mandatory death penalty was incompatible with "obligations under international law." Thus, it referred to numerous reports of the Inter-American Commission that have repeatedly underlined this, including *McKenzie et al. v. Jamaica*, Report No. 41/00 of April 13, 2000; *Baptiste v. Granada*, Report No. 38/00 of April 13, 2000; *Edwards et al. v. Bahamas*, Report No. 48/01 of April 4, 2001, and *Sewell v. Jamaica*, Report No. 76/02 of December 27, 2002. In addition, regarding the case law of the Inter-American Court, the Judicial Committee of the Privy Council referred expressly to the judgment in the *case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago* of June 21, 2002, and, in particular, to paragraphs 102 to 108 in which the Court concluded that the automatic and generalized application of the death penalty, as was the case in Trinidad and Tobago, was contrary to Article 4(1) and 4(2) of the American Convention.⁴⁰

28. On June 13, 2005, a temporary stay of the execution of the Messrs. Dial and Dottin was ordered. On August 15, 2008, the constitutional motion was granted and the death sentences were commuted to life imprisonment.⁴¹

D. The detention conditions

29. From February 24, 1995, to January 21, 1997, the time during which they remained deprived of liberty in pre-trial detention, both Dial and Dottin were held in the Port of Spain prison in cells measuring approximately 8 by 10 feet (about 2.4 by 3 meters) together with from eight to eleven other detainees.⁴² Subsequently, they were transferred to the Golden Grove Prison where Mr. Dial was confined in a cell with similar characteristics with two other detainees, while Mr. Dottin was confined with four to five other detainees.⁴³ Each cell had only one bed, despite the number of inmates; therefore, most of the detainees had to sleep on the floor.⁴⁴ The cells had inadequate ventilation and very little natural light; moreover, artificial lighting remained on permanently for security reasons.⁴⁵ The detention centers did not have suitable facilities for hygiene, exercise or recreation. In the Port of Spain prison, detainees only had half an hour each day to have breakfast, exercise and shower, and in the Golden Grove Prison they were only allowed to exercise once or twice a week for from 45 minutes to an hour.⁴⁶

⁴⁰ Cf. Judicial Committee of the Privy Council, *Charles Matthew v The State* (2004) 64 WIR 412, Judgment of July 7, 2004. Available at: <http://www.bailii.org/uk/cases/UKPC/2004/33.html>

⁴¹ Cf. High Court of Justice of Trinidad and Tobago, Decision of August 15, 2008 (evidence file, folios 1830 to 1832).

⁴² Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 1781), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 1788). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 14 (evidence file, folio 2182) and Affidavit made by Andrew Dottin on July 28, 2022, para. 14 (evidence file, folio 2204).

⁴³ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 1781), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 1788). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 14 (evidence file, folio 2221) and Affidavit made by Andrew Dottin on July 28, 2022, para. 14 (evidence file, folio 2204).

⁴⁴ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 1781), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 1788). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 14 (evidence file, folio 2182) and Affidavit made by Andrew Dottin on July 28, 2022, para. 14 (evidence file, folio 2204).

⁴⁵ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 1781), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 1788). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 15 (evidence file, folio 2182) and Affidavit made by Andrew Dottin on July 28, 2022, para. 15 (evidence file, folio 2204).

⁴⁶ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 1781), and Notarized

30. Following their conviction on January 21, 1997, Messrs. Dial and Dottin were held in solitary confinement in cells measuring approximately 8 by 10 feet (about 2.4 by 3 meters) with inadequate ventilation, little natural light, and a fluorescent light that remained on 24 hours each day.⁴⁷ The cells lacked sanitary facilities and prisoners had to tie a sheet to the bars of the cell to obtain some privacy. The prison authorities failed to provide drinking water on a regular basis. Prisoners only had access to the water that was provided for their personal hygiene, which was brownish at times and unsuitable for human consumption.⁴⁸ In addition, prisoners were kept in their cells for 23 hours each day and lacked educational or recreational activities.⁴⁹

31. Furthermore, Messrs. Dial and Dottin did not have access to adequate health services. Mr. Dial stated that he suffered from indigestion and that he had merely been provided with a special diet recommended by the doctor. He also indicated that he had made numerous requests for a dental appointment, which were "ignored."⁵⁰ Meanwhile, Mr. Dottin indicated that, at least up until 1999, his requests to see a doctor had been denied.⁵¹

32. In this regard, according to the Commission and the representatives, on March 5, 1995, the General Secretary of the Prison Officers' Association made the following statement in a national newspaper:

The majority [of the prison authorities] empathise with the inmates because we have to work in the same conditions in which they live. We have a duty to patrol these areas for hours...making periodic checks and walk the pathways that are sticky with filth. [...] The conditions are highly deplorable, unacceptable and pose a health hazard. [...] It is not easy when there are eleven human beings in a 9' x 6' cell [approximately 2.7 x 1.8 meters] with a five-gallon pigtail bucket for a toilet in one corner. It is not a lie when they say you have to sit on the pail or stand up and sleep. It is terrible and it really, really stinks. I won't put my animals in there.⁵²

VI MERITS

RIGHTS TO LIFE, PERSONAL INTEGRITY, PERSONAL LIBERTY, JUDICIAL GUARANTEES AND JUDICIAL PROTECTION⁵³

33. This case relates to: (i) the automatic imposition of the death penalty on Messrs. Dial and Dottin (the sentence was subsequently commuted to life imprisonment); (ii) the alleged anomalies in the context of their detention and subsequent trial, and (iii) the detention conditions to which they

statement by Andrew Dottin of October 23, 1999, para. 12 (evidence file, folio 1788).

⁴⁷ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 22 (evidence file, folio 1782), and Notarized statement by Andrew Dottin of October 23, 1999, para. 23 (evidence file, folio 1789). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 63 (evidence file, folio 2230) and Affidavit made by Andrew Dottin on July 28, 2022, para. 63 (evidence file, folio 2214), and Human Rights Committee, *Evans c/ Trinidad and Tobago*, Communication No. 908/2000, Views of March 21, 2003, CCPR/C/77/D/908/2000.

⁴⁸ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 25 (evidence file, folio 1783), and Notarized statement by Andrew Dottin of October 23, 1999, para. 26 (evidence file, folio 1790). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 64 (evidence file, folio 2231) and Affidavit made by Andrew Dottin on July 28, 2022, para. 14 (evidence file, folio 2204).

⁴⁹ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 26 (evidence file, folio 1783), and Notarized statement by Andrew Dottin of October 23, 1999, para. 27 (evidence file, folio 1790).

⁵⁰ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 27 (evidence file, folio 1783). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 67 (evidence file, folio 2231).

⁵¹ Cf. Notarized statement by Andrew Dottin of October 23, 1999, para. 28 (evidence file, folio 1790).

⁵² Statement made by the General Secretary of the Prison Officers' Association.

⁵³ Articles 4, 5, 7, 8 and 25(1) of the American Convention on Human Rights .

were subjected before and after their conviction.

34. Before ruling on the merits of the case, the Court wishes to reiterate its doctrine on the application of a stricter level of scrutiny when considering cases related to capital punishment. The right to life enjoys full recognition as the supreme right of the human being and as a condition *sine qua non* for the enjoyment of all the other rights. Therefore, the Court considers that it has a more rigorous obligation to verify that any conduct linked to the application of the death penalty complies strictly with the requirements of the applicable inter-American human rights instruments. This "rigorous scrutiny test" is consistent with the restrictive approach to the imposition of the death penalty adopted by other human rights treaty bodies.⁵⁴ Therefore, the Court will apply a stricter scrutiny when examining the alleged facts in this case in order to verify whether the State respected the rights to life, to due process and to a fair trial, pursuant to the standards of the American Convention.

35. In light of the allegations made by the representatives and the Commission regarding the violations of the Convention that took place between May 28, 1991, and May 26, 1999, in this case, the Court will examine: (i) the compatibility of the automatic imposition of the death penalty with the American Convention, to then analyze (ii) the alleged violation of a person's right to be informed of the reasons for his or her arrest and of the charges; (iii) the alleged violation of the right of a person held in pre-trial detention to be tried within a reasonable time and, lastly, (iv) the detention conditions to which Messrs. Dial and Dottin were subjected during their pre-trial detention and following their conviction, all within the framework of the Court's jurisdiction *ratione temporis* in this case.

A. Arguments of the parties and of the Commission

36. The **Commission** argued that, pursuant to the consistent case law of the Court, the mandatory imposition of the death penalty, without the possibility of arguing or considering mitigating circumstances when determining the sentence, contravened the American Convention and the American Declaration. It indicated that the Court had already ruled on the Offences Against the Person Act and on the mandatory death penalty in cases concerning persons convicted of murder to the effect that this violated the prohibition of the arbitrary deprivation of life established in Article 4(1) and 4(2) of the American Convention. The Commission argued that the mandatory imposition of the death penalty failed to permit consideration of the characteristics of the crime, or the level of participation and degree of culpability of the accused, thus preventing a rational determination of the sentence. It also emphasized that, in the instant case, the death sentence was handed down in February 1997, when the American Convention was still in force for Trinidad and Tobago. The Commission argued that this violated the State's obligations under Articles 4(1), 4(2), 5(2), 8(1) and

⁵⁴ Cf. *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, Advisory Opinion OC-16/99, October 1, 1999. Series A No. 16, para 136, in which the Court concluded that "[b]ecause execution of the death penalty is irreversible, the strictest and most rigorous enforcement of judicial guarantees is required of the State so that those guarantees are not violated and a human life not arbitrarily taken as a result"; IACHR, Report No. 57/96 (William Andrews v. United States), IACHR Annual Report 1997, paras. 170 and 171; Report No. 38/100 (Baptiste v. Grenada), IACHR Annual Report 1999, paras. 64 to 66; Report No. 41/00 (McKenzie et al. v. Jamaica), IACHR Annual Report 1999, paras. 169 to 171; Report No. 1/05 (Moreno Ramos v. United States) IACHR Annual Report 2005, paras. 43 and 44, among others; United Nations, Human Rights Committee, Baboeram-Adhin *et al.* v. Suriname, Communication No. 146/1983 and 148-154/1983, adopted on April 4, 1985, para. 14.3, in which the Committee concluded that "the law must strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of the State," and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1994/82, Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories. UN Doc. E/CN.4/1995/61, December 14, 1994, para 378, in which the Special Rapporteur underlined that, when a death sentence is imposed, "the application of the standards for fair trial must be verified and ensured in accordance with the obligation under international law" concerning due process.

25 of the American Convention, in relation to Articles 1(1) and 2 of this instrument. Lastly, it indicated that, contrary to other countries – such as Barbados – where the imposition of the mandatory death penalty had been declared unconstitutional, it remained in force in Trinidad and Tobago.

37. With regard to the trial of Messrs. Dial and Dottin, the Commission argued that it had failed to make “a serious analysis of the inconsistencies in the evidence,” which violated the rights to the presumption of innocence, to a fair trial and, in particular, to obtain a reasoned judgment, pursuant to Article 8(1) and 8(2) of the American Convention, in relation to Article 1(1) of this instrument. It also indicated that the lack of an effective remedy with regard to the said inconsistencies in the evidence violated Article 25(1) of the Convention, in relation to Article 1(1) of this instrument. Moreover, it argued that the time that elapsed between their arrest on February 21, 1995, and the start of the trial on January 15, 1997, violated the right to be tried within a reasonable time established in Articles 7(5) and 8(1) of the American Convention.

38. Lastly, the Commission argued that the imposition of the mandatory death penalty was exacerbated by the detention conditions to which Messrs. Dial and Dottin were subjected on death row which violated Article 5(1) of the American Convention, in relation to Article 1(1) of this instrument, and Articles XXV and XXVI of the American Declaration.

39. The **representatives** also argued that the imposition of the mandatory death penalty was contrary to the American Convention, as the Court had indicated in the cases of *Hilaire, Constantine et al. v. Trinidad and Tobago*, *Benjamin et al. v. Trinidad and Tobago*, *Boyce et al. v. Barbados* and *DaCosta Cadogan v. Barbados*. They alleged that the imposition of the mandatory death penalty in this case contravened Articles 2, 4(1), 4(2) and 4(6) of the American Convention. They also argued that the mandatory imposition of the death penalty prevented the presentation of arguments concerning the severity of the sentence and the determination of a sentence that was adapted to the criminal conduct of those convicted, in violation of Article 8 of the American Convention. In addition, they considered that the State’s initial refusal to commute the sentences constituted an additional violation of Articles 4(2), 4(6) and 25 of the American Convention, because Messrs. Dial and Dottin remained on death row for several years following the precedents established by the decisions in the cases of *Pratt and Morgan* and *Matthew v. Trinidad and Tobago*.

40. Furthermore, the representatives argued that the delay of 23 months between the arrest of Messrs. Dial and Dottin on February 24, 1995, and the start of the trial on January 15, 1997, violated the right to be tried within a reasonable time established in Articles 7(5) and 8(1) of the American Convention.

41. Additionally, the representatives argued that the trial of Messrs. Dial and Dottin violated the guarantee of due process established in Article 8 of the American Convention and the right to a fair trial established in its Articles 24 and 25. In this regard, they alleged that the principle of the presumption of innocence had not been respected, that the alleged victims had not been given prior notification in detail of the crimes they were accused of, that they were not given adequate time and means for the preparation of their defense, and that they had not been assisted by legal counsel of their own choosing. They also argued that the right to communicate freely and privately with their defense counsel had been violated, as well as to examine prosecution witnesses and to obtain the appearance of defense witnesses and experts.

42. The representatives also argued that Messrs. Dial and Dottin’s detention conditions while they were held in pre-trial detention and during their imprisonment violated the conditions established in the Prison Rules of Trinidad and Tobago, and the standards of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). They also indicated that the fact that Messrs. Dial and Dottin remained on death row for eleven years in “deplorable” conditions violated their right to personal integrity under Article 5(1) and 5(2) of the American Convention. The

foregoing entailed the violation of Article 5 of the American Convention to the detriment of Messrs. Dial and Dottin, and also of Article 17 of the American Convention to the detriment of Mr. Dial and of Article 19 of the American Convention to the detriment of his son, because the authorities refused to allow Mr. Dial to be in contact with his family.

43. As previously established, the State abstained from taking part in the proceedings before this Court and, therefore, it has not commented on the arguments of the Commission and the representatives.

B. Considerations of the Court

b.1 Automatic imposition of the death penalty

44. The Court notes that, in the instant case, the Offences Against the Person Act was applied and, at the time of the facts of this case, its Chapter 11:08, article 4, established that “[e]very person convicted of murder shall suffer death.” This Court has already had occasion to rule on the application of the said law over the period 1993 to 1998, specifically in the case of *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*.⁵⁵ Therefore, and since Messrs. Dial and Dottin were sentenced and convicted in 1997 in application of the same law, the Court is able to base itself on the analysis it made in that case.

45. Even though the Convention does not expressly prohibit the application of the death penalty, the Court has asserted that the conventional standards in this regard should be interpreted as “delimit[ing] strictly its application and scope, in order to reduce the application of the death penalty to bring about its gradual disappearance.”⁵⁶

46. Additionally, it should be recalled that the Court has recently underlined that, in the exceptional cases in which States are allowed to apply the death penalty, this possibility is subject to a series of rigorous constraints.⁵⁷ On the one hand, it stipulated that the death penalty could only be imposed for the most serious crimes (Article 4(2)) and, on the other, its application was absolutely excluded for political offenses or related common crimes (Article 4(4)). The fact that the American Convention reduces the possible sphere of application of the death penalty to the most serious common crimes and not for political offenses or related common crimes reveals its intention that this punishment be considered applicable only in exceptional circumstances.⁵⁸

47. The Court reiterates that the Offences Against the Person Act of Trinidad and Tobago applied to Messrs. Dial and Dottin established the generalized and automatic imposition of the death penalty for the crime of murder and disregarded the fact that this crime may have different degrees of

⁵⁵ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, para. 60.

⁵⁶ *Restrictions to the Death Penalty (Arts. 4.2 and 4.4 American Convention on Human Rights)*, Advisory Opinion OC-3/83, September 8, 1983. Series A No. 3, para. 57, and *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, para. 99.

⁵⁷ Cf. *Case of Martínez Coronado v. Guatemala. Merits, reparations and costs*. Judgment of May 10, 2019. Series C No. 376, para. 62; *Case of Ruiz Fuentes et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 10, 2019. Series C No. 385, para. 78; *Case of Valenzuela Ávila v. Guatemala. Merits, reparations and costs*. Judgment of October 11, 2019. Series C No. 386, para. 151, *Case of Rodríguez Revolorio et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 14, 2019. Series C No. 387, para. 61, and *Case of Girón et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 15, 2019. Series C No. 390, para. 62.

⁵⁸ Cf. *Case of Martínez Coronado v. Guatemala. Merits, reparations and costs*. Judgment of May 10, 2019. Series C No. 376, para. 62, and *Case of Girón et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 15, 2019. Series C No. 390, para. 63.

seriousness. Thus, it should be noted that the Offences Against the Person Act has two main particularities: (a) for the determination of criminal responsibility, the judge is only authorized to find a person guilty of murder based solely on the categorization of the crime, without being able to take into account the personal circumstances of the accused or the particular circumstances of the offense, and (b) for the determination of the punishment, the said law, automatically and in general, imposes the death penalty on all those found guilty of murder and prevents modification of the punishment by a process of judicial review. Consequently, the act prevented the judge from considering the basic circumstances of the case when determining the degree of guilt and individualizing the sentence and, in light of Article 4 of the American Convention, this is extremely serious as it jeopardizes the most significant right, namely the right to life, and is arbitrary.⁵⁹ In this regard, the Court deems it pertinent to recall that the United Nations Human Rights Committee has considered that the mandatory character of the death sentence which deprives the accused on his right to life prevents consideration of whether, in the particular circumstances of the case, this exceptional form of punishment is compatible with the provisions of the International Covenant on Civil and Political Rights.⁶⁰

48. In sum, the Court notes that, as it is worded, the effect of article 4 of the Offences Against the Person Act is to subject those accused of murder to trials in which the particular circumstances of the crime and of the accused, such as the criminal record of the accused and of the victim, the motive, the extent and severity of the harm caused, and the possible mitigating or aggravating circumstances, among other considerations concerning the accused and the crime, are never taken into consideration – by any court. Consequently, the Court concludes that, when certain laws make it mandatory to impose a death sentence automatically, this does not permit distinctions to be made between the degrees of seriousness and individual circumstances of the particular crime, and this is incompatible with the limitation of capital punishment to the most serious crimes, as established in Article 4(2) of the Convention.⁶¹

49. Additionally, the Court has repeatedly asserted that Article 2 of the American Convention obliges States Parties to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms. The legislative measures adopted to this end must be effective (*effet utile*), which means that the State is obliged to adopt and to integrate into its domestic law all necessary measures to ensure that the Convention is implemented and complied with.⁶² It should be stressed that the obligation to adapt domestic law is only fulfilled when the necessary and appropriate reforms have been carried out.⁶³ Moreover, if States, based on Article 2 of the American Convention, have the positive obligation to adopt the necessary legislative measures to guarantee the exercise of the rights

⁵⁹ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, paras. 103 and 104.

⁶⁰ Cf. UN, Human Rights Committee, *Kennedy v. Trinidad and Tobago* (Communication No. 845/1999), UN Doc. CCPR/C/74/D/845/1999 of March 28, 2002, para. 7.3; UN, Human Rights Committee, *Thompson v. Saint Vincent and the Grenadines* (Communication No. 806/1998), UN Doc. CCPR/C/70/D/806/1998 of December 5, 2000, para. 8.2; UN, Human Rights Committee, *Pagdayawon v. Philippines* (Communication 1110/2002), UN Doc. CCPR/C/82/D/1110/2002 of December 8, 2004, para. 5.2.

⁶¹ Cf. *Case of Boyce et al. v. Barbados. Preliminary objection, merits, reparations and costs*. Judgment of November 20, 2007. Series C No. 16, paras. 54, 55 and 108, and *Case of Ruiz Fuentes et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 10, 2019. Series C No. 385, para. 88. See also, UN, Human Rights Council, Report of the Secretary-General on the question of the death penalty, September 14, 2018, A/HRC/39/19, para. 24, and UN, Economic and Social Council, Report of the Secretary-General, "Capital punishment and the implementation of safeguards guaranteeing protection of the rights of those facing the death penalty," E/2015/49, para. 63.

⁶² Cf. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.)*. Judgment of February 5, 2001. Series C No. 73, para. 87, and *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, para. 112.

⁶³ Cf. *Case of Raxcacó Reyes v. Guatemala*, *supra*, para. 89, and *Case of Palamara Iribarne v. Chile. Merits, reparations and costs*. Judgment of November 22, 2005. Series C No. 135, para. 89.

recognized in the Convention, with all the more reason, they must abstain from promulgating laws that disregard those rights or prevent their exercise, as well as amend or eliminate those laws that have such consequences. To the contrary, they would be violating Article 2 of the Convention.⁶⁴ The Court considers that even though, years later, Messrs. Dial and Dottin benefited from the commutation of their death sentence, the fact that the Offences Against the Person Act is in force, *per se*, violates Article 2 of the Convention.⁶⁵ Based on the foregoing, the Court also concludes that the State failed to comply with the provisions of Article 2 of the American Convention.⁶⁶

50. Consequently, the State is responsible for the violation of Article 4(2) of the American Convention, in relation to Articles 1(1) and 2 of this instrument. Regarding the alleged violation of Article 4(1) of the Convention in relation to the imposition of the death penalty, the Court notes that this was never executed because, in 2008, the sentence was commuted to life imprisonment. Therefore, the State is not responsible for the violation of Article 4(1) of the American Convention.⁶⁷ In the case of the alleged violation of Articles 4(2), 4(6) and 25 of the American Convention for the failure to commute the sentences, the Court notes that, in the instant case, the sentences were finally commuted in 2008; thus the dispute would refer to the delay in the commutation, a matter that exceeds the temporal framework of the case submitted to the Court's jurisdiction by the Commission.

b.2 Right of everyone to be informed of the reasons for their detention and of the charge or charges against them

51. In this case, the Court notes that although the representatives referred to the failure to notify the alleged victims of the charges against them in relation to Article 8(2)(b) of the Convention before this instance, it considers that, based on the *iura novit curia* principle,⁶⁸ their arguments should be examined under Article 7(4) (right to personal liberty) of the American Convention.

52. To prevent unlawful or arbitrary detentions, paragraph 4 of Article 7 of the Convention refers to notification of the reasons for the detention. It contains two guarantees for the person who is being detained: (i) information, whether in oral or written form, at the time of the arrest, and (ii)

⁶⁴ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, para. 113.

⁶⁵ Cf. *Case of Suárez Rosero*, *supra*, para. 98. This position is in keeping with this Court's Advisory Opinion OC-14/94, according to which "[i]n the case of self-executing laws, [...] the violation of human rights, whether individual or collective, occurs upon their promulgation." See: *International Responsibility for the Promulgation and Enforcement of Laws in violation of the Convention (Arts. 1 and 2 of the American Convention on Human Rights)*, Advisory Opinion OC-14/94, December 9, 1994. Series A No. 14, para. 43.

⁶⁶ Cf. *Case of Fermín Ramírez v. Guatemala. Merits, reparations and costs*. Judgment of June 20, 2005. Series C No. 126, para. 110, and *Case of Raxcacó Reyes v. Guatemala*, *supra*, para. 88.

⁶⁷ Cf. *Case of Ruiz Fuentes et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 10, 2019. Series C No. 385, para. 89, and *Case of Rodríguez Revolorio et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 14, 2019. Series C No. 387, para. 156.

⁶⁸ The *iura novit curia* principle, firmly supported by international case law, has been cited by the Court on numerous occasions in relation to possible violations of the provisions of the Convention that have not been alleged by the parties in their briefs, in the understanding that they have had the opportunity to state their respective positions in relation to the facts underlying such violations. Cf. *Case of Lagos del Campo v. Peru, Preliminary objections, merits, reparations and costs*. Judgment of August 31, 2017. Series C No. 340, para. 139; *Case of Velásquez Rodríguez v. Honduras*, *supra* para. 163; and *Case of Acosta et al. v. Nicaragua*, *supra*, para. 189. See also, PCIJ, *Case of the S.S. "Lotus" (France v. Turkey)*, Judgment No. 9, September 7, 1927, Series A; PCIJ, *Case relating to the Territorial Jurisdiction of the International Commission of the River Oder (United Kingdom Czechoslovakia, Denmark, France, Germany, Sweden v. Poland)*, Judgment No. 23, September 10, 1929, Series A; PCIJ, *Case of the Free Zones of Upper Savoy and the District of Gex (France v. Switzerland)*, Judgment No. 46, June 7, 1932, Series A/B; ECHR, *Case of Guerra and Others v. Italy*, No. 14967/89, Judgment of February 19, 1998, para. 45; ECHR, *Case of Handyside v. The United Kingdom*, No. 5493/72, Judgment of December 7, 1976, para. 41, and ECHR, *Case of Philis v. Greece*, Nos. 12750/87, 13780/88 and 14003/88, Judgment of August 27, 1991, para. 56.

written notification of the charges.⁶⁹ The information concerning the reasons for the detention must be provided at the time of the arrest,⁷⁰ and this means that the agent who makes the arrest must inform the person concerned "in simple language, free of technical terms, of the essential legal grounds and facts on which the arrest is based."⁷¹ When it is alleged that this guarantee has not been complied with, which signifies the assertion that an act has not been performed, the State has the burden of proving the contrary. Meanwhile, the allegation that the reasons for the detention were notified is a positive action, which permits it to be proved. Moreover, the State's defense cannot be based on the impossibility of the alleged victim providing evidence that cannot be obtained without its cooperation.⁷²

53. In this case, the Court notes that both the representatives,⁷³ and Messrs. Dial and Dottin,⁷⁴ indicated that the alleged victims were not notified in detail of the charges against them and that the first time they were informed of the charges was during the preliminary inquiry, which took place six months after their arrest. According to the representatives, they were not provided with any written information on the charges even during this procedure. The Court recalls that, when the inexistence of an action, such as the notification of the charges at the time of the arrest, is alleged, the State has the burden of proving that the notification did, in fact, occur. The State has not commented or provided any evidence in this regard, even when the Court, on its own motion, required it to provide "all the documents relating to the detention of Messrs. Dial and Dottin and, in particular but not limited to any record of their arrest and any documents notified to the alleged victims at the time of their arrest" (*supra* para. 10 and footnote 15). This leads the Court to conclude that the State is responsible for the violation of Article 7(4) of the American Convention, in relation to Article 1(1) of this instrument, to the detriment of Messrs. Dial and Dottin.

b.3 Right of anyone held in pre-trial detention to be tried within a reasonable time

54. First, the Court notes that, although the Commission and the representatives indicated that the time between Messrs. Dial and Dottin's arrest and their conviction violated Articles 7(5) and 8(1) of the American Convention, in the instant case, this allegation must be examined under Article 7(5) because it relates specifically to the reasonableness of the pre-trial detention.⁷⁵ That said, the Court reiterates that pre-trial detention is the harshest measure that can be applied to anyone accused of an offense and, therefore, its application should be exceptional, because it is limited by the right to

⁶⁹ Cf. *Case of Cabrera García and Montiel Flores v. Mexico, Preliminary objection, merits, reparations and costs*, Judgment of November 26, 2010, Series C No. 220, para. 106; and *Case of Azul Rojas Marín et al. v. Peru, Preliminary objections, merits, reparations and costs*. Series C No. 402, para. 131.

⁷⁰ This "is a mechanism to prevent unlawful or arbitrary detentions from the very moment when a person is deprived of his or her liberty. It also ensures the right to defense of the person detained" (Cf. *Case of Juan Humberto Sánchez v. Honduras, Preliminary objection, merits, reparations and costs*. Judgment of June 7, 2003. Series C No. 99, para. 82, and *Case of Azul Rojas Marín et al. v. Peru, supra*, para. 131). In addition, this Court has indicated that "the agent who makes the arrest must inform [the person concerned] in simple language, free of technical terms, of the essential legal grounds and facts on which the arrest is based. Article 7(4) of the Convention is not satisfied by the mere mention of the legal grounds" (*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. 71, and *Case of Azul Rojas Marín and otra v. Peru, supra*, para. 131).

⁷¹ Cf. *Case of Chaparro Álvarez and Lapo Íñiguez. v. Ecuador, supra*, para. 71, and *Case of Yvon Neptune v. Haiti. Merits, reparations and costs*. Judgment of May 6, 2008. Series C No. 180, para. 106.

⁷² Cf. *Case of Chaparro Álvarez and Lapo Íñiguez. v. Ecuador, supra*, para. 73, and *Case of J. v. Peru, Preliminary objection, merits, reparations and costs*. Judgment of November 27, 2013. Series C No. 275, para. 150.

⁷³ Cf. Brief with pleadings, motions and evidence, para. 4.46 (merits file, folio 92).

⁷⁴ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 7 (evidence file, folio 1780); Affidavit made by Kelvin Dial on July 28, 2022, para. 6 (evidence file, folio 2219); Notarized statement by Andrew Dottin of October 23, 1999, para. 7 (evidence file, folio 1787), and Affidavit made by Andrew Dottin on July 28, 2022, para. 6 (evidence file, folio 2202).

⁷⁵ Cf. *mutatis mutandis, Case of Amrhein et al. v. Costa Rica. Preliminary objections, merits, reparations and costs*. Judgment of April 25, 2018. Series C No. 354 paras. 359 to 369 and 419.

the presumption of innocence, as well as by the principles of necessity and proportionality, essential in a democratic society.⁷⁶ In this regard, the Court recalls that pre-trial detention must abide strictly by the provisions of Article 7(5) of the American Convention, in the sense that it may not continue beyond a reasonable time or the subsistence of the reasons cited to justify it. Failure to comply with these requirements amounts to the execution of the punishment before the sentence has been pronounced, which is contrary to the universally-recognized general principles of law.⁷⁷ Thus, even when reasons exist to maintain a person in pre-trial detention, Article 7(5) guarantees that they must be released if the time spent in detention has exceeded a reasonable limit.⁷⁸ In other words, if a person remains deprived of liberty in pre-trial detention and the trial is not held within a reasonable time, Article 7(5) of the Convention is violated.

55. The Court also notes that a factor that should have a bearing on the need to try the accused within a reasonable time is the fact that if this person is being held in pre-trial detention,⁷⁹ this has a serious impact on the right to personal liberty and, therefore it is essential that the trial be held promptly.⁸⁰ In this regard, the Court recalls that the right to personal liberty “also imposes a judicial obligation to process the criminal proceedings during which the accused is deprived of liberty with greater diligence and promptness.”⁸¹ Thus, when the duration of pre-trial detention exceeds a reasonable time, the State may restrict the liberty of the accused by other measures that are less harmful than deprivation of liberty to ensure their appearance at the trial.⁸²

56. Furthermore, the time that a person remains in pre-trial detention cannot be analyzed in the abstract; rather, its reasonable nature must be determined by examining the individual facts together with the specific characteristics of each situation and, among other matters, whether domestic law prescribes a specific duration, the actual duration of the pre-trial detention, the offense or offenses in question, and the characteristics of the criminal proceedings and the situations that have occurred during those proceedings.⁸³

57. That said, the Court notes that the pre-trial detention of Messrs. Dial and Dottin began on February 24, 1995, the day on which they were arrested, and ended on January 21, 1997, the day on which the guilty verdict was handed down; thus, they remained in pre-trial detention for almost 23 months. The Court also notes that this case differs from that of *Hilaire, Constantine and Benjamin*

⁷⁶ Cf. *Case of Suárez Rosero v. Ecuador. Merits*. Judgment of November 12, 1997. Series C No. 35, para. 77, and *Case of the "Juvenile Re-education Institute" v. Paraguay*. Preliminary objections, merits, reparations and costs. Judgment of September 2, 2004. Series C No. 112, para. 228.

⁷⁷ Cf. *Case of Suárez Rosero v. Ecuador, supra*, para. 77, and *Case of the "Juvenile Re-education Institute" v. Paraguay, supra*, para. 229. See also, Rule 13.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by General Assembly resolution 40/33 of November 28, 1985; and Rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of December 14, 1990.

⁷⁸ Cf. *Case of Amrhein et al. v. Costa Rica, supra*, para. 362

⁷⁹ In this regard, the UN Human Rights Committee has indicated that “[i]n cases involving serious charges such as homicide or murder, and where the accused is denied bail by the court, the accused must be tried in as expeditious a manner as possible.” Cf. UN, Human Rights Committee UN, Communication No. 818/1998, Views adopted on August 1, 2001, CCPR/C/72/D/818/1998, para. 7.2; *Mr. Glenroy Francis et al. v. Trinidad and Tobago*, Communication No. 899/1999, Views adopted on July 25, 2002, CCPR/C/75/D/899/1999, para. 5.4, and *Barroso v. Panama*, Communication No. 473/1991, Views adopted on July 27, 1995, CCPR/C/54/D/473/1991, para. 8.5.

⁸⁰ Cf. *mutatis mutandis, Case of Carranza Alarcón v. Ecuador. Preliminary objections, Merits, reparations and costs*. Judgment of February 3, 2020. Series C No. 399, para. 87.

⁸¹ Cf. *Case of Bayarri v. Argentina. Preliminary objections, merits, reparations and costs*. Judgment of October 30, 2008. Series C No. 187, para. 70, and *Case of Amrhein et al. v. Costa Rica, supra*, para. 360.

⁸² Cf. *Case of Barreto Leiva v. Venezuela. Merits, reparations and costs*. Judgment of November 17, 2009. Series C No. 206, para. 120.

⁸³ Cf. *Case of Bayarri v. Argentina, supra*, paras. 70 and 74, and *Case of Barreto Leiva v. Venezuela, supra*, para. 120.

et al. v. Trinidad and Tobago in which the Court declared that Article 7(5) had been violated because, in the latter case, the time between the arrest of the 24 victims and the date on which they were sentenced ranged from 32 months to 8 years,⁸⁴ while, in the instant case, as indicated above, it was 23 months. This required the party alleging the violation of the said Article 7(5) of the American Convention to provide more specific arguments on the alleged violation of this article in the circumstances of this case, which did not occur. Therefore, the Court notes that it has no specific evidence that would allow it to examine whether Messrs. Dial and Dottin's pre-trial detention exceeded a reasonable time.

b.4 Judicial guarantees and judicial protection

58. Within the framework of the right to due process, one of the fundamental rights is the right to adequate time and means to prepare a defense established in Article 8(2)(c) of the Convention, which requires the State to guarantee the defendant's access to the case file against him.⁸⁵ Similarly, it is necessary to respect the adversarial principle, which guarantees the defendant's involvement in the analysis of the evidence.⁸⁶ Regarding the adequate means required for the preparation of the defense, this includes all the material and evidence that the prosecution wishes to use against the accused, together with exculpatory documents.⁸⁷ If the State finds it necessary to restrict this right, it must respect the principle of legality, provide reasoned arguments on the legitimate objective that it seeks to achieve, and prove that the means used to this end are suitable, necessary and strictly proportionate. Otherwise, the restriction of the defendant's right of defense will be contrary to the Convention.⁸⁸

59. Additionally, pursuant to Article 8(2)(d) of the Convention, this Court has indicated that the right of defense arises from the moment at which an investigation into an individual is opened. As of that time, the person investigated should have access to legal counsel, above all during the procedure in which his statement is received. Preventing the person investigated from being assisted by his legal counsel severely limits his right of defense, leads to a procedural imbalance and leaves that person unprotected in relation to the exercise of punitive power.⁸⁹

60. Furthermore, the death penalty is a form of punishment that differs in substance as well as in degree from other means of punishment, and therefore warrants a particularly stringent need for certainty regarding the responsibility of the accused.⁹⁰ As mentioned previously (*supra* para. 34), the fact that execution of the death penalty is an irreversible measure requires the State to ensure the strictest and most rigorous respect for the judicial guarantees in order to prevent their violation, which would result in the arbitrary deprivation of life.⁹¹ This heightened scrutiny is consistent with the restrictive approach to the imposition of the death penalty taken by other international human rights authorities.⁹²

⁸⁴ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, para. 120.

⁸⁵ Cf. *Case of Palamara Iribarne v. Chile*, *supra*, para. 170, and *Case of Álvarez Ramos v. Venezuela. Preliminary objection, merits, reparations and costs*. Judgment of August 30, 2019. Series C No. 380, para. 153.

⁸⁶ Cf. *Case of Palamara Iribarne v. Chile*. Merits, reparations and costs. Judgment of November 22, 2005. Series C No. 135, para. 178, and *Case of Álvarez Ramos v. Venezuela*, *supra*, para. 153.

⁸⁷ Cf. *Case of Álvarez Ramos v. Venezuela*, *supra*, para. 154.

⁸⁸ Cf. *Case of Barreto Leiva v. Venezuela*, *supra*, para. 154.

⁸⁹ Cf. *Case of Barreto Leiva v. Venezuela*, *supra*, para. 62.

⁹⁰ Cf. IACHR, The death penalty in the inter-American human rights system; from restrictions to abolition, December 31, 2011, OEA/Ser.L/V/II, para. 41.

⁹¹ Cf. *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, Advisory Opinion OC-16/99, October 1, 1999. Series A No. 16, para. 136.

⁹² Cf. IACHR, The death penalty in the inter-American human rights system; from restrictions to abolition, December 31,

61. In the instant case, the Court notes that, at the time of their arrest, Messrs. Dial and Dottin were not permitted to contact their lawyers. Moreover, they indicated that access to their lawyer during the preliminary stages, and before and during the trial was extremely limited. They explained that they were only able to speak with their lawyers for a few minutes before the trial. In particular, Mr. Dial could only speak to his lawyer for 15 minutes before the preliminary inquiry and was unable to meet with him before the trial, while Mr. Dottin was unable to meet with his lawyer either before the preliminary inquiry or before the trial. They added that, during the trial, they were only able to have short conversations with their lawyers, without any privacy, because such conversations took place in the presence of police officers.⁹³ Also, they were unable to communicate with and give adequate instructions to the lawyer who represented them before the appellate court.⁹⁴ Additionally, Ravi Rajcoomar, Mr. Dial's lawyer during the trial (that is, from January 15 to 21, 1997), declared that he was denied access to the following documents: (i) witness statements taken during the six months following the perpetration of the offenses; (ii) descriptions included by the police in their notes over the same period; (iii) extracts from police logbooks, and (iv) the report on the ballistics analysis, and other forensic reports on the scene of the crime and on other places (except for the evidence presented during the trial).⁹⁵ The State did not contest any of the foregoing.

62. Based on the above, the Court considers that the restriction of access to their lawyers, as well as the restricted access to certain documents in the case file by one of the lawyers hampered the defense's effective performance of their functions and, therefore, had an impact on the right of defense of Messrs. Dial and Dottin. Consequently, the Court declares that the State violated Article 8(2)(c) and 8(2)(d) of the Convention, in relation to Article 1(1) of this instrument.

b.5 Detention conditions during pre-trial detention and after sentencing

63. The Court recalls that Article 5(1) of the Convention establishes the right to personal integrity, both physical, and also mental and moral, in general. Meanwhile, Article 5(2) establishes, more specifically, the absolute prohibition of subjecting anyone to torture or to cruel, inhuman or degrading treatment or punishment. Moreover, it has now been recognized that the absolute prohibition of torture, either physical or psychological, forms part of international *ius cogens*.⁹⁶

64. The Court has also indicated that the violation of the right to physical and mental integrity has different gradations and ranges from torture to other kinds of ill-treatment or cruel, inhuman or degrading treatment, the physical and mental effects of which vary in intensity based on endogenous and exogenous factors (such as, the duration of the treatment and the context, and the individual's age, sex, health and vulnerability), which must be analyzed in each specific case.⁹⁷ In other words, the

2011, OEA/Ser.L/V/II, para. 40.

⁹³ Cf. Notarized statement by Kelvin Dial of October 23, 1999, paras. 7, 14 and 17 (evidence file, folios 1780 to 1782), and Notarized statement by Andrew Dottin of October 23, 1999, paras. 7, 16 and 17 (evidence file, folios 1787 to 1789). See also, Affidavit made by Kelvin Dial on July 28, 2022, paras. 8, 9 and 18 to 22 (evidence file, folios 2220 to 2222) and Affidavit made by Andrew Dottin on July 28, 2022, paras. 8, 9, 10, and 20 to 22 (evidence file, folios 2203 to 2205).

⁹⁴ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 20 (evidence file, folio 1782), and Notarized statement by Andrew Dottin of October 23, 1999, para. 18 (evidence file, folio 1789). See also, Affidavit made by Kelvin Dial on July 28, 2022, para. 24 (evidence file, folio 2222) and Affidavit made by Andrew Dottin on July 28, 2022, para. 24 (evidence file, folio 2205).

⁹⁵ Cf. Sworn statement made by Ravi Rajcoomar on August 3, 1998 (evidence file, folio 1796).

⁹⁶ Cf. *Case of Maritza Urrutia v. Guatemala. Merits, reparations and costs*. Judgment of November 27, 2003. Series C No. 103, para. 92, and *Case of the Women Victims of Sexual Torture in Atenco v. Mexico. Merits, reparations and costs*. Judgment of November 28, 2018. Series C No. 371, paras. 177 and 178.

⁹⁷ Cf. *Case of Loayza Tamayo v. Peru. Merits, supra*, para. 57, and *Case of the Women Victims of Sexual Torture in Atenco v. Mexico, supra*, para. 177.

personal characteristics of an alleged victim of torture or cruel, inhuman or degrading treatment, must be taken into account when determining whether their personal integrity has been violated because such characteristics may alter their perception and, consequently, increase the suffering and the feeling of humiliation when subjected to certain treatment.⁹⁸

65. According to Article 5(2) of the Convention, all persons deprived of their liberty have the right to detention conditions that are compatible with their personal dignity, and the State must guarantee their rights to life and to personal integrity. Consequently, the State, as the entity responsible for detention centers, is the guarantor of those rights of the detainee.⁹⁹

66. This Court has had occasion to rule on the death row phenomenon in the cases of *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*¹⁰⁰ and *Raxcacó Reyes v. Guatemala*,¹⁰¹ as well as in the relatively recent cases of *Ruiz Fuentes et al.*, *Valenzuela Ávila, Rodríguez Revolorio et al.*, and *Girón et al.*, against Guatemala.¹⁰² It notes that in both the case of *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago* and also the cases of *Raxcacó Reyes, Ruiz Fuentes et al.*, *Valenzuela Ávila*, and *Rodríguez Revolorio et al.* against Guatemala, it assessed the expert opinions provided concerning the specific detention conditions of those condemned to death and victims in the said cases, as well as with regard to the particular impact that those conditions had on them, and decided that the said conditions resulted in a violation of Article 5(1) and 5(2) of the American Convention, in relation to Article 1(1) of this instrument.¹⁰³ Consequently, in order to determine the existence of a violation of personal integrity as a result of the death row phenomenon, the personal circumstances and particularities of the case must be examined so as to be able to assess whether a specific treatment or punishment has attained the minimum level of severity to be categorized as

⁹⁸ Cf. *Case of Ximenes Lopes v. Brazil*. Judgment of July 4, 2006. Series C No. 149, para. 127, and *Case of Omeara Carrascal et al. v. Colombia*, *supra*, para. 193.

⁹⁹ Cf. *Case of Neira Alegría et al. v. Peru. Merits*. Judgment of January 19, 1995. Series C No. 20, para. 60, and *Case of Raxcacó Reyes v. Guatemala*, *supra*, para. 95.

¹⁰⁰ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, reparations and costs*. Judgment of June 21, 2002. Series C No. 94.

¹⁰¹ Cf. *Case of Raxcacó Reyes v. Guatemala*, *supra*, paras. 100 to 102.

¹⁰² Cf. *Case of Ruiz Fuentes et al. v. Guatemala*, *supra*, paras. 133 to 137; *Case of Valenzuela Ávila v. Guatemala*, *supra*, paras. 206 and 207; *Case of Rodríguez Revolorio et al. v. Guatemala*, *supra*, paras. 92 to 96, and *Case of Girón et al. v. Guatemala*, *supra*, paras. 79, 84, 85 and 99. In addition, the European Court of Human Rights, the universal system of human rights, and some domestic courts have noted that death row violates the right to personal integrity owing to the anguish suffered by those condemned to death, a situation that results in mental trauma owing to ever-present and increasing anticipation of the execution of the death sentence. Consequently, it is considered cruel, inhuman and degrading treatment. Cf. ECHR, *Case of Öcalan v. Turkey* [GC], no. 46221/99, Judgment of May 12, 2005, paras. 166 to 169, *Case of Bader and Kanbor v. Sweden*, no. 13284/04, Judgment of November 8, 2005, paras. 42 to 48; *Case of Soering v. the United Kingdom* [GS], no. 14038/88, Judgment of July 7, 1989, paras. 56, 81 and 111; United Nations, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. UN Doc. A/67/279 of August 9, 2012, para. 42. The death row phenomenon is defined as follows: "[i]t consists of a combination of circumstances that produce severe mental trauma and physical deterioration in prisoners under sentence of death. Those circumstances include the lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even the physical conditions in which some inmates are held. Death row conditions are often worse than those for the rest of the prison population, and prisoners on death row are denied many basic human necessities." See also, Human Rights Committee, *Larrañaga v. The Philippines*, UN Doc. CCPR/C/87/D/1421/2005 of September 14, 2006, para. 7.11; *Mwamba v. Zambia*, UN Doc. CCPR/C/98/D/1520/2006 (2010), para. 6.8; *Catholic Commission for Justice and Peace in Zimbabwe v. Attorney General of Zimbabwe and Others*, Judgment of the Zimbabwe Supreme Court (4) SA 239 (ZS) of June 24, 1993; *Attorney General v. Susan Kigula and 417 Others*, Judgment of the Supreme Court of Uganda (Constitutional Appeal No. 3 of 2006), 2009; *Catholic Commission for Justice and Peace in Zimbabwe v. Attorney General of Zimbabwe and Others*, Zimbabwe Supreme Court (1993), 2LRC 277; *Godfrey Mutiso v. Republic*, Court of Appeal of Kenya (2010). See also: *United States v. Burns*, Supreme Court of Canada, 2001 SCC 7, paras. 118 to 123;

¹⁰³ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, *supra*, paras. 167 to 172, and *Case of Raxcacó Reyes v. Guatemala*, *supra*, paras. 100 to 102.

cruel, inhuman or degrading.¹⁰⁴ Additionally, when determining the proven facts in this judgment, the Court recalls the provisions of Article 41(3) of the Rules of Procedure, which establish that the Court “may consider those facts that have not been expressly denied and those claims that have not been expressly controverted as accepted.” In this regard, the Court reiterates that, as it has considered in previous cases, when the State fails to answer the application specifically, it is presumed that the facts on which it is silent are true, provided that it is possible to infer consistent conclusions from the existing evidence.¹⁰⁵

67. That said, the Court notes that the representatives have consistently indicated, both before the domestic authorities,¹⁰⁶ and throughout the proceedings before both the Commission and the Court,¹⁰⁷ the deplorable conditions under which Messrs. Dial and Dottin were detained. This has been confirmed by the statements of Messrs. Dial and Dottin in the past and before this Court.¹⁰⁸ The State has not taken part in these proceedings before the Court; therefore, it has not refuted these allegations.

68. The specific instruments concerning the treatment of those deprived of liberty at both the inter-American and the universal level stress the essential nature of human dignity as one of the most fundamental values in the implementation of all prison policies.¹⁰⁹ In this regard, the Court recalls that numerous decisions of international bodies cite the United Nations Standard Minimum Rules for the Treatment of Prisoners when interpreting the content of the right of prisoners to decent and humane treatment. This Court has also had recourse to these rules when analyzing the compatibility of detention conditions with the American Convention.¹¹⁰ The Minimum Rules indicate basic standards for accommodation, personal hygiene, health-care services and exercise for prisoners. In particular, the rules establish a series of minimum requirements for prison cells, namely:

¹⁰⁴ Cf. *Case of Rodríguez Revolorio et al. v. Guatemala*, supra, para. 94, and *Case of Ruiz Fuentes et al. v. Guatemala*, supra, para. 135.

¹⁰⁵ Cf. *Case of Godínez Cruz v. Honduras. Merits*. Judgment of January 20, 1989. Series C No. 5, para. 144; *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, supra, para. 67; *Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala*, para. 68, and *Case of Caesar v. Trinidad and Tobago*, supra, para. 37.

¹⁰⁶ Cf. Letter of August 1, 2006, addressed to the Commissioner of Prisons by Mr. Dial’s the representatives (evidence file, folio 1811), Letter of November 5, 2006, addressed to the Commissioner of Prisons by Mr. Dial’s the representatives (evidence file, folio 1811).

¹⁰⁷ Cf. Petition lodged before the Inter-American Commission on Human Rights on behalf of Kelvin Dial on April 29, 1999, section G (evidence file, folio 1948); Petition lodged before the Inter-American Commission on Human Rights on behalf of Andrew Dottin on April 29, 1999, section G (evidence file, folio 1956); Petition updated before the Inter-American Commission on Human Rights on behalf of Kelvin Dial on May 7, 1999 (evidence file, folio 1980); Petition updated before the Inter-American Commission on Human Rights on behalf of Andrew Dottin on May 7, 1999 (evidence file, folio 2019); the representatives’ answer to the State’s brief dated October 22, 1999, section F (evidence file, folios 2055 and 2056); Petition updated before the Inter-American Commission on Human Rights on behalf of Kelvin Dial and Andrew Dottin on August 8, 2005, paras. 61 to 69.10 (evidence file, folios 2110 to 2112); Petition updated before the Inter-American Commission on Human Rights on behalf of Kelvin Dial and Andrew Dottin on April 18, 2008, paras. 59 to 69.10 (evidence file, folios 2141 to 2144), and Brief with pleadings, motions and evidence of December 20, 2021, para. 3.16-20 and 3.61-69 (merits file, folios 67, 68, 77 and 78).

¹⁰⁸ Cf. Notarized statement by Kelvin Dial of October 21, 1999 (evidence file, folios 2065 to 2069); Notarized statement by Andrew Dottin of October 21, 1999 (evidence file, folios 2074 to 2076); Affidavit made by Kelvin Dial on July 28, 2022, paras. 14 to 17 and 63 to 68 (evidence file, folios 2221, 2230 and 2231), and Affidavit made by Andrew Dottin on July 28, 2022, paras. 13 to 17 and 63 to 68 (evidence file, folios 2203, 2204 and 2214).

¹⁰⁹ Cf. *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)*. Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 40.

¹¹⁰ Cf. *inter alia*, *Case of Raxcacó Reyes v. Guatemala*, supra, paras. 99 and ff; *Case of Vélez Loor v. Panama. Preliminary objections, merits, reparations and costs*. Judgment of November 23, 2010. Series C No. 218, paras. 151 and 198; *Case of Fleury et al. v. Haiti. Merits and reparations*. Judgment of November 23, 2011, Series C No. 236, para. 85, and *Matter of the Urso Branco Prison with regard to Brazil. Provisional measures*. Order of the Inter-American Court of Human Rights of August 29, 2002, considering paragraph 10.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work, (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation; (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness. [...]

20(2). Drinking water shall be available to every prisoner whenever he needs it.¹¹¹

69. The Court notes that, during the time Messrs. Dial and Dottin were held in pre-trial detention, they were obliged to share a cell measuring approximately 8 by 10 feet (about 2.4 by 3 meters) with from eight or nine, or even eleven, other detainees while in the Port of Spain prison, and with two to four other detainees while in the Golden Grove Prison.¹¹² In addition, the cell was extremely hot, with little ventilation and almost no natural light.¹¹³ The conditions were very unhygienic and the detainees were surrounded by urine and feces.¹¹⁴ Each cell had only one bed, which meant that detainees had to sleep on the floor.¹¹⁵ Frequently, the lights were kept on for security reasons; there was little natural light and ventilation.¹¹⁶ The Court also notes that there were no adequate facilities for sports or recreations, and physical activity was limited to 20 or 30 minutes each day during the week and 10 minutes on Saturdays and Sundays;¹¹⁷ moreover, in the Golden Grove Prison, exercise was limited to 45 minutes or an hour, once or twice a week.¹¹⁸

¹¹¹ Cf. Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of July 31, 1957, and 2076 (LXVII) of May 13, 1977. In 2011, the UN General Assembly decided to establish an open-ended intergovernmental Expert Group to review and possibly revise the rules. In May 2015, the Commission on Crime Prevention and Criminal Justice (CCPCJ) endorsed the revised rules and submitted the[m ...] for approval by the Economic and Social Council (ECOSOC) and subsequent adoption by the General Assembly, [...] which adopted the revised rules on December 17, 2015, during its 80th session (Resolution A/RES/70/175 of January 8, 2016). At its fourth meeting, the Expert Group recommended that the revised rules be known as "the Nelson Mandela Rules." Since the facts that are the subject of the Court's analysis took place between February 24, 1995, and May 26, 1999, the Court will take into account the criteria established in the 1955 Standard Minimum Rules.

¹¹² Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), and Notarized statement by Andrew Dottin of October 23, 1999, paras. 12 and 23 (evidence file, folios 2074 and 2075).

¹¹³ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 2074).

¹¹⁴ Cf. Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 2074).

¹¹⁵ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 2074).

¹¹⁶ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 2074).

¹¹⁷ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), and Notarized statement by Andrew Dottin of October 23, 1999, para. 11 (evidence file, folio 2074).

¹¹⁸ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 10 (evidence file, folio 2067), and Notarized

70. Additionally, following their conviction on January 21, 1997, Messrs. Dial and Dottin were transferred to a cell measuring approximately 8 by 10 feet (about 2.4 by 3 meters) with little natural light, inadequate ventilation, and a fluorescent light that remained on 24 hours a day.¹¹⁹ The prison was dirty and lacked adequate sanitary installations (prisoners had to comply with the needs of nature in a plastic bucket), and they had to tie a sheet to the bars of the cell to obtain some privacy.¹²⁰ Furthermore, prisoners only had access to the water provided for their personal hygiene, which was brownish in color at times and unsuitable for human consumption.¹²¹ The prison authorities failed to provide drinking water on a regular basis.¹²² The Court also underscores the lack of educational or recreational activities and the fact that prisoners were kept in their cells for 23 hours each day.¹²³

71. The Court also notes that not only were Messrs. Dial and Dottin held in the conditions described above, but also, following their conviction, they were held on death row. On this point, the Court has indicated that the waiting time between the moment someone is sentenced to death and the moment when this sentence is executed produces mental anguish, extreme tension and psychological trauma owing to the situation experienced by the person which includes the way in which the sentence was imposed from the perspective of due process, and also the characteristics of the condemned man.¹²⁴

72. To the above are added the detention conditions usually experienced by those held on death row, where the inhuman treatment they receive is due to conditions of physical deprivation that include insufficient food, water and health care, as well as prolonged solitary confinement that could extend over many years, and the absence of opportunities to leave their cells and take any exercise, as in the instant case.¹²⁵ Indeed, in recent decades, both international human rights law and comparative law have been addressing the issue of prolonged imprisonment on death row, known as the "death row phenomenon," in light of the prohibition of cruel, inhuman or degrading treatment, indicating that this phenomenon "consists of a combination of circumstances that produce severe mental trauma and physical deterioration in prisoners under sentence of death"; these "include the lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even the physical conditions in which some inmates are held."¹²⁶ Also, "[d]eath row conditions are often worse than those for the rest of the prison population, and prisoners on death row are denied many basic human necessities."¹²⁷ In addition, precisely in a case against Trinidad and

statement by Andrew Dottin of October 23, 1999, para. 12 (evidence file, folio 2074).

¹¹⁹ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 22 (evidence file, folio 2068), and Notarized statement by Andrew Dottin of October 23, 1999, para. 23 (evidence file, folio 2075).

¹²⁰ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 23 (evidence file, folio 2068), and Notarized statement by Andrew Dottin of October 23, 1999, paras. 24 and 25 (evidence file, folio 2075).

¹²¹ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 25 (evidence file, folio 2069), and Notarized statement by Andrew Dottin of October 23, 1999, para. 26 (evidence file, folio 2075).

¹²² Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 25 (evidence file, folio 2069), Notarized statement by Andrew Dottin of October 23, 1999, para. 26 (evidence file, folio 2075).

¹²³ Cf. Notarized statement by Kelvin Dial of October 23, 1999, para. 26 (evidence file, folio 2069), Notarized statement by Andrew Dottin of October 23, 1999, para. 27 (evidence file, folio 2075).

¹²⁴ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago, supra*, para. 167, and *Case of Girón et al. v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of October 15, 2019. Series C No. 390, para. 84.

¹²⁵ Cf. IACHR, *The death penalty in the inter-American human rights system; from restrictions to abolition*, December 31, 2011, OEA/Ser.L/V/II, Doc. 68, para. 45.

¹²⁶ Cf. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. UN Doc. A/67/279 of August 9, 2012, para. 42.

¹²⁷ Cf. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. UN Doc. A/67/279 of August 9, 2012, para. 42. See also, ECHR, *Soering v. the United Kingdom* [Plenary], No. 14038/88, Judgment of July 7, 1989, para. 111.

Tobago, the Inter-American Court considered that the detention conditions, together with the procedures leading up to death by hanging – the method of execution established for Messrs. Dial and Dottin¹²⁸— terrified and depressed the prisoners.¹²⁹

73. The Court recalls that, since it is responsible for detention centers, the State must guarantee that inmates have living conditions that safeguard their rights. On other occasions, this Court has indicated that keeping an individual confined in overcrowded conditions, with little ventilation and natural light, without a bed to rest on, or adequate conditions of hygiene, in isolation or solitary confinement, or with undue restrictions on visiting conditions, constitutes a violation of personal integrity.¹³⁰ The Court also considers it relevant to take into account the standards recommended by international bodies for the minimum acceptable space required for a dignified life in prison.¹³¹ It has also indicated that the absence of minimum conditions that ensure the supply of drinking water within a prison constitutes a serious failure of the State to comply with its duty to guarantee the rights of those held in its custody given that, due to the particular circumstances of any deprivation of liberty, detainees cannot satisfy by themselves a series of basic necessities that are essential for a decent life, such as access to sufficient clean water.¹³²

74. Additionally, the Court notes that the UN Human Rights Committee had occasion to examine detention conditions in Trinidad and Tobago's prisons at the time of the facts of this case. Thus, in the case of *Xavier Evans v. Trinidad and Tobago*, the Committee analyzed, *inter alia*, the victim's detention conditions while he was on death row between July 4, 1988, and January 4, 1994, and determined that those conditions violated Article 10(1) of the International Covenant on Civil and Political Rights which stipulates that: "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."¹³³ The Committee ruled in

¹²⁸ Messrs. Dial and Dottin were condemned to death by hanging by the Fourth Criminal Court, Port of Spain, which declared that: "The sentence of the Court upon you is that you be taken from this place to a lawful prison and thence to a place of execution and that you there suffer death by hanging, and may the Lord have mercy upon your souls." *Cf.* Transcript of the trial before the Fourth Criminal Court, Port of Spain, from January 15 to 21, 1997, p. 36 (evidence file, folio 440).

¹²⁹ *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago, supra*, para. 168.

¹³⁰ *Cf. Case of Tibi v. Ecuador. Preliminary objections, Merits, reparations and costs.* Judgment of September 7, 2004. Series C No. 114, para. 150, and *Case of the Miguel Castro Castro Prison v. Peru. Merits, reparations and costs.* Judgment of November 25, 2006, para. 315. See also, *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments).* Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 40.

¹³¹ *Cf. Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments).* Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 40. See also, International Committee of the Red Cross (ICRC) (3.4 square meters in shared cells and 5.4 square meters in individual cells) and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (4 square meters in shared cells and 6 square meters in individual cells). See also, *Case of Montero Aranguren et al. (Retén de Catia) v. Venezuela. Preliminary objection, merits, reparations and costs.* Judgment of July 5, 2006. Series C No. 150, para. 90.

¹³² *Cf. Case of Vélez Loor v. Panamá. Preliminary objections, Merits, reparations and costs.* Judgment of November 23, 2010. Series C No. 218, para. 216. 65, and *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments).* Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 40. Meanwhile, the UN Human Rights Committee has indicated that holding an individual in a small cell for twenty-three hours each day, isolated from other men, in enforced darkness, with little to keep him occupied, and without permitting him to work or to undergo education, constituted a violation of his right to be treated with humanity and with respect for the inherent dignity of the human person. In the case of *Albert Womah Mukong*, the Human Rights Committee insisted on the universality of the right to decent and humane treatment and rejected economic or budgetary considerations being used as an excuse for failing to respect this right. *Cf.* UN, Human Rights Committee, *Anthony McLeod v. Jamaica*, Communication No. 734/1997, Views of June 3, 1998, CCPR/C/62/D/734/1997, para. 6.4, and UN, Human Rights Committee, *Albert Womah Mukong v. Cameroon*, Communication No. 458/1991, Views of August 10, 1994, CCPR/C/51/D/458/1991, para. 9.3. See also, *Case of Raxcacó Reyes v. Guatemala, supra*, para. 96.

¹³³ The Committee noted that victim was held on death row "for a period of five years in a cell measuring 6 by 9 feet, with

a similar sense in the case of *Glenroy Francis et al. v. Trinidad and Tobago* in relation to the detention conditions in the Golden Grove and Port of Spain prisons from 1986 to 1997, both when the victims were in pre-trial detention, and after they had been sentenced to death.¹³⁴ Another significant case was that of *Teesdale v. Trinidad and Tobago*, in which the Committee also determined that Mr. Teesdale's detention conditions between 1988 and 1996 (both when he was being held in pre-trial detention and after he had been sentenced to death) violated, *inter alia*, the said Article 10(1) of the International Covenant on Civil and Political Rights.¹³⁵

75. Based on the above, the Court concludes that the State failed to comply with the minimum standards during the detention of Messrs. Dial and Dottin.

76. Finally, as regards the visiting regime, the Court recalls that, in the case of persons deprived of liberty, Rule 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, recognizes the importance of contact between prisoners and the outside world when establishing that "[p]risoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits." In addition, Rule 79 recognizes that "[s]pecial attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family."¹³⁶ Similarly, Principle XVIII of the Principles and Best Practice on the Protection of Persons Deprived of Liberty in the Americas recognizes the right of such persons "to maintain direct and personal contact through regular visits with members of their family, [...], especially their parents, sons and daughters, and their respective partners."¹³⁷ For persons deprived of liberty, visits with members of their families constitute a fundamental element of the right to protection of the family for both the person deprived of liberty and also their family members, not only because it represents an opportunity for contact with the outside world, but also because the support that family members provide to persons deprived of liberty while they are serving their sentence is fundamental in many aspects ranging from affective and emotional factors to financial support. Therefore, based on the provisions of Articles 17(1) and 1(1) of the American Convention, States, as guarantors of the rights of all persons in their custody, have the obligation to adopt the most appropriate measures to facilitate and implement contact between persons deprived of liberty and their family members.¹³⁸

77. That said, the Court notes that it is clear that the visiting regime constraints alleged by the representatives had an impact on Mr. Dial, since he was denied the possibility of seeing his son, who

no sanitation except for a slop pail, no natural light, being allowed out of his cell only once or twice a week during which he was restrained in handcuffs, and with wholly inadequate food that did not take into account his particular dietary requirements". Cf. UN, Human Rights Committee, *Xavier Evans v. Trinidad and Tobago*, Communication No. 908/2000, Views of March 21, 2003, CCPR/C/77/D/908/2000, para. 6.4.

¹³⁴ Cf. UN, Human Rights Committee, *Glenroy Francis et al. v. Trinidad and Tobago*, Communication No. 899/2000, Views of May 14, 1997, CCPR/C/75/D/899/1999, para. 5.6.

¹³⁵ Cf. UN, Human Rights Committee, *Kenneth Teesdale v. Trinidad and Tobago*, Communication No. 677/1996, Views of April 15, 2003, CCPR/C/74/D/677/1996, para. 9.1. See also, *Michael Wanza v. Trinidad and Tobago*, Communication No. 683/1996, Views of June 10, 2002, CCPR/C/74/D/683/1996, para. 9.2, and *Rawle Kennedy v. Trinidad and Tobago*, Communication No. 845/1998, Views of March 28, 2002, CCPR/C/74/D/845/1998, para. 7.8.

¹³⁶ Cf. Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of July 31, 1957, and 2076 (LXVII) of May 13, 1977. Available at: https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf.

¹³⁷ Cf. IACHR. *Principles and Best Practice on the Protection of Persons Deprived of Liberty in the Americas.*, Resolution 1/08, adopted during the 131st regular session held from March 3 to 14, 2008. Available at: <https://www.oas.org/en/iachr/mandate/basics/principles-best-practices-protection-persons-deprived-liberty-americas.pdf>.

¹³⁸ Cf. *Case of Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile. Merits, reparations and costs.* Judgment of May 29, 2014. Series C No. 279, para. 407.

was born shortly after his arrest. Moreover, Mr. Dial stated that he had never been able to see his son.¹³⁹ The Court recalls that Article 17(1) of the American Convention recognizes that children have a right to their biological family, which must provide them with protection and, furthermore, they should be the primary subject of the protective measures of the State.¹⁴⁰ The Court has already indicated that this right entails not only the availability and direct implementation of measures of protection for children, but also encourages the most comprehensive development and strengthening of the family unit,¹⁴¹ because the mutual enjoyment of harmonious relations between parents and children is a fundamental component of family life.¹⁴²

78. In addition, in its recent Advisory Opinion OC-29/22, the Court indicated that, according to the Convention on the Rights of the Child, the State should not only abstain from unduly interfering in a child's private or family relations, but should also take positive steps to ensure the full exercise and enjoyment of the child's rights.¹⁴³ This requires the State, as the entity responsible for the common good, to safeguard the pre-eminent role of the family in the protection of the child and to provide the government's assistance to the family, by adopting measures to support the family unit.¹⁴⁴

79. Based on the foregoing, the Court concludes that Messrs. Dial and Dottin experienced mental suffering while in pre-trial detention and, following their conviction, on death row. Moreover, this was in the context of detention conditions that were incompatible with international standards, thus violating their right to physical, mental and moral integrity, recognized in Article 5(1) of the American Convention and this has constituted cruel, inhuman and degrading treatment in the terms of Article 5(2), all in relation to Article 1(1) of this instrument. Furthermore, in the case of Mr. Dial, the State is responsible for the violation of the right to protection of the family established in Article 17(1) of the Convention, in relation to Article 1(1) of this instrument.

VII REPARATIONS

80. Based on the provisions of Article 63(1) of the American Convention, the Court has indicated that any violation of an international obligation that has caused harm entails the duty to make adequate reparation and that this provisions reflects a customary norm that constitutes one of the

¹³⁹ Cf. Notarized statement by Kelvin Dial of October 1999, para. 29 (evidence file, folio 2069), and Affidavit made by Kelvin Dial on July 28, 2022, para. 69 (evidence file, folio 2231).

¹⁴⁰ Cf. *Case of Fornerón and daughter v. Argentina. Merits, reparations and costs*. Judgment of April 27, 2012. Series C No. 242, para. 119, and *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)*. Advisory Opinion OC-29/2, *supra*, para. 182.

¹⁴¹ Cf. *Juridical Status and Human Rights of the Child*, Advisory Opinion OC-17/02, August 28, 2002. Series A No. 17, para. 66, and *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)*. Advisory Opinion OC-29/2, *supra*, para. 182.

¹⁴² Cf. *Juridical Status and Human Rights of the Child*, Advisory Opinion OC-17/02, *supra*, para. 72, and *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)*. Advisory Opinion OC-29/22, *supra*, para. 182.

¹⁴³ Cf. *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)*. Advisory Opinion OC-29/2, *supra*, para. 183, referring to Articles 7, 8, 9, 11, 16, and 18 of the Convention on the Rights of the Child.

¹⁴⁴ Cf. *Case of the Las Dos Erres Massacre v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of November 24, 2009. Series C No. 211, para. 190, and *Case of Contreras et al. v. El Salvador. Merits, reparations and costs*. Judgment of August 31, 2011. Series C No. 232, para. 107.

fundamental principles of contemporary international law on State responsibility.¹⁴⁵

81. The reparation of the harm caused by the violation of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which consists in the restoration of the previous situation. If this is not feasible, as in most cases of human rights violations, the Court will determine measures to ensure the rights that were violated and to redress the consequences of such violations.¹⁴⁶ Therefore, the Court has considered the need to establish diverse measures of reparation in order to redress the harm comprehensively so that, in addition to financial compensation, measures of restitution, rehabilitation and satisfaction, together with guarantees of non-repetition, have special relevance for the harm caused.¹⁴⁷

82. The Court has established that the reparations should have a causal nexus with the facts of the case, the violations declared, the harm proved, and the measures requested to redress the respective harm. Consequently, the Court must observe this concurrence to rule duly and pursuant to law.¹⁴⁸

83. Taking into account the violations of the American Convention declared in the preceding chapter, in light of the criteria established in the Court's case law in relation to the nature and scope of the obligation to make reparation,¹⁴⁹ the Court will examine the claims submitted by the Commission and the representatives, together with the corresponding arguments of the State, in order to establish the measures tending to redress the said violations.

A. Injured party

84. This Court has considered that, pursuant to Article 63(1) of the Convention, anyone who has been declared the victim of a violation of any right recognized therein is an injured party. Therefore, the Court considers that Kevin Dial and Andrew Dottin are the "injured party" and, as victims of the violations declared in Chapter VI of this judgment, they will be the beneficiaries of the reparations ordered by the Court.

B. Measure of restitution

85. The **Commission** requested the review of the sentence imposed on Messrs. Dial and Dottin in keeping with the guarantees of a fair trial and due process of law established in Articles XVIII and XXVI of the American Declaration.

86. The **representatives** asked the Court to order the release of Messrs. Dial and Dottin or, alternatively, that the sentence imposed be reviewed, taking into account the particular characteristics of the accused and of the crime of which they were convicted. In addition, they asked that the Court order the adoption of measures for the social rehabilitation and reintegration of Messrs. Dial and Dottin.

¹⁴⁵ Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and costs*. Judgment of July 21, 1989. Series C No. 7, para. 25, and *Case of Deras García et al. v. Honduras. Merits, reparations and costs*. Judgment of August 25, 2022. Series C No. 462, para. 90.

¹⁴⁶ Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and costs, supra*, paras. 25 and 2, and *Case of Deras García et al. v. Honduras, supra*, para. 91.

¹⁴⁷ Cf. *Case of the Las Dos Erres Massacre v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of November 24, 2009. Series C No. 211, para. 226, and *Case of Deras García et al. v. Honduras, supra*, para. 92.

¹⁴⁸ 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 Deras García et al. v. Honduras, supra*, para. 93.

¹⁴⁹ Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and costs, supra*, paras. 25 to 27, and *Case of Deras García et al. v. Honduras, supra*, para. 93.

87. Regarding this request, it should be recalled that, in 2008, the death sentence imposed on Messrs. Dial and Dottin - which this Court has declared in this judgment contravenes the American Convention – was commuted to life imprisonment by the High Court of Justice of Trinidad and Tobago. The Court recalls that the execution of prison sentences should endeavor to ensure that the convicted person is able to reintegrate society in conditions in which they are able to function in keeping with the principles of peaceful coexistence and respect for the law.¹⁵⁰ Similarly, Article 10(3) of the International Covenant on Civil and Political Rights indicates that “[t]he penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”

88. Consequently, the Court orders as a measure of reparation, the establishment of a mechanism for the review of the prison sentence imposed on Messrs. Dial and Dottin, in light of the standards described in the preceding paragraph, with a view to their social rehabilitation.

C. Measures of satisfaction

89. Even though neither the Commission nor the representatives requested measures of satisfaction, the Court considers, as it has in other cases,¹⁵¹ that the State should publish, within six months of notification of this judgment: (a) the official summary of the judgment prepared by the Court, once, in the Official Gazette, in an adequate and legible font; (b) the official summary of the judgment prepared by the Court, once, in a national newspaper with widespread circulation in an adequate and legible font, and (c) this judgment in its entirety, available for one year, on an official website of the State, in a way that is accessible to the public from the website’s home page. The State must inform this Court immediately when it has made each of the publications ordered, regardless of the one-year time frame for presenting its first report established in the eighth operative paragraph of this judgment.

D. Other measures requested

90. The **Commission** recommended that the State review “its laws, procedure and practices” to ensure that persons accused of “capital crimes” are tried within a reasonable time after their arrest and, if convicted, sentenced in accordance with the rights established in the American Declaration and, in particular, the rights to a fair trial, due process, and humane treatment during their imprisonment.

91. The Commission also recommended that prison conditions be compatible with international human rights standards in accordance with the right to protection against cruel, infamous or unusual punishment.

92. In addition, the Commission recommended that Trinidad and Tobago abolish the death penalty, including the mandatory death penalty.

¹⁵⁰ Cf. *Differentiated approaches with respect to certain groups of persons deprived of liberty (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments)* Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 51. See also, *ECHR, Vinter and Others v. the United Kingdom* [GS], Nos. 66069/09, 130/10 7 3896/10, Judgment of July 9, 2021, paras. 108, 119 and 120; *Hutchinson v. the United Kingdom* [GS], no. 57592/08, Judgment of January 17, 2017, paras. 38, 42 and 69, and *Petukhov v. Ukraine (No. 2)*, no. 41216/13, Judgment of March 12, 2019, para. 168, and Rome Statute of the International Criminal Court, article 110.3.

¹⁵¹ Cf. *Case of Montesinos Mejía v. Ecuador. Preliminary objections, Merits, reparations and costs*. Judgment of January 27, 2020. Series C No. 398, para. 226, and *Case of Deras García v. Honduras, supra*, para. 168

93. The **representatives** asked the Court to order the State to abstain from applying the “Offences Against the Person Act 1925” in cases in which it would be incompatible with the American Convention, and to adopt legislative or other measures to ensure that the death penalty was not imposed in a manner inconsistent with the rights and freedoms recognized in the American Convention and other international human rights instruments and, in particular: (a) that it was not imposed in a mandatory fashion; (b) that different categories of murder were introduced that took into account the particular circumstances of the crime and of the perpetrator, and (c) that respect for, and enjoyment of, the rights to life, personal integrity, a fair trial, and due process were ensured. They also asked that Trinidad and Tobago comply with the American Convention and other relevant international human rights instruments in relation to prison conditions.

94. The **State** did not comment on the foregoing.

95. Regarding the application of the “Offences Against the Person Act”, already in the *case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, the Court had ordered the State of Trinidad and Tobago “to abstain from applying the Offences Against the Person Act of 1925 and, within a reasonable time, to amend [it] to comply with international norms for the protection of human rights.”¹⁵² Therefore, the Court considers it unnecessary to reiterate this measure of reparation as it already forms part of its monitoring of compliance with the judgment in that case.¹⁵³

96. In relation to the detention conditions, already in the cases of *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago* and *Caesar v. Trinidad and Tobago*, the Court had ordered the State of Trinidad and Tobago to modify the conditions of its prison system to conform to the relevant international norms for the protection of the human rights of those deprived of liberty.¹⁵⁴

97. Lastly, regarding the Commission’s request that Trinidad and Tobago officially abolish the death penalty, the Court recalls that Article 4 of the American Convention seeks the gradual adoption of the necessary safeguards to restrict the application of capital punishment definitively, until its total elimination.¹⁵⁵

D. Compensation

98. In its case law, the Court has developed the concept of pecuniary damage and has established that this supposes the loss of, or detriment to, the income of the victims, the expenses incurred as a result of the facts, and the consequences of a pecuniary nature that have a causal nexus with the facts of the case.¹⁵⁶

99. The Court has also established in its case law that non-pecuniary damage “may include both the suffering and afflictions caused by the violations and also the impairment of values of great significance to the individual, and any alteration of a non-pecuniary nature in the living conditions of

¹⁵² Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago, supra*, para. 212 and eighth operative paragraph.

¹⁵³ Cf. The Court notes that it has applied Article 65 of the American Convention in those cases, because it has verified that the State has not complied with those judgments.

¹⁵⁴ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago, supra*, para. 217 and fourteenth operative paragraph, and *Case of Caesar v. Trinidad and Tobago, supra*, para. 134 and fifth operative paragraph

¹⁵⁵ Cf. *Case of Martínez Coronado v. Guatemala. Merits, reparations and costs*. Judgment of May 10, 2019. Series C No. 376, para. 63, and *Case of Ruiz Fuentes et al. v. Guatemala, supra*, para. 80.

¹⁵⁶ Cf. *Case of Bámaca Velásquez v. Guatemala. Reparations and costs*. Judgment of February 22, 2002. Series C No. 91, para. 43, and *Case of Deras García et al. v. Honduras, supra*, para. 123.

the victims.” In addition, since it is not possible to allocate a precise monetary equivalent to non-pecuniary damage, this can only be compensated for the purposes of integral reparation to the victim by the payment of a sum of money or the delivery of goods or services with a monetary value, which the Court determines in reasonable application of sound judicial criteria and in terms of equity.¹⁵⁷

100. The **Commission** made a general recommendation that “pecuniary compensation” be paid.

101. The **representatives** asked the Court to establish the compensation for pecuniary damage [*sic*¹⁵⁸] that it considered “fair and appropriate,” taking into account the “significant physical and mental suffering” experienced by Messrs. Dial and Dottin. Subsequently, they requested the sum of US\$10,000.00 (ten thousand United States dollars).

102. The **State** did not comment on the foregoing.

103. Although the representatives identified their request for reparation as pecuniary damage, the Court interprets that, in reality, their arguments refer to the non-pecuniary damage caused by the violations of the Convention. In this regard, the Court notes that the death sentence, and also the detention conditions in which the victims were held during the time Trinidad and Tobago was subject to the jurisdiction of the Court, gave rise to suffering and anguish, with personal consequences. Specifically, Mr. Dial indicated that the facts described in this case had a “harmful impact on his mental health, physical health, and personal and family life.”¹⁵⁹ Mr. Dottin made a similar statement.¹⁶⁰

104. Consequently, considering the circumstances of this case, the violations verified, the suffering caused and experienced to different degrees, and the time that has elapsed, the Court orders, in equity, the payment of US\$17,000.00 (seventeen thousand United States dollars) in favor of Mr. Dial and US\$15,000.00 (fifteen thousand United States dollars) in favor of Mr. Dottin, for non-pecuniary damage.

E. Costs and expenses

105. The **representatives** indicated that they would not charge legal fees because they had represented the victims *pro bono*. They added that the expenses incurred before the Court would be covered by the Victims’ Legal Assistance Fund (*infra* paras. 106 and *ff.*). Consequently, the Court will not rule on this item.

F. Reimbursement of expenses to the Victims’ Legal Assistance Fund of the Inter-American Court

106. In 2008, the General Assembly of the Organization of American States established the Legal Assistance Fund of the Inter-American Human Rights System in order to “facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system.”¹⁶¹

¹⁵⁷ Cf. *Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala. Reparations and costs*. Judgment of May 26, 2001. Series C No. 77, para. 84, and *Case of Deras García et al. v. Honduras, supra*, para. 123.

¹⁵⁸ Although the representatives referred to pecuniary damage, the Court will examine this claim under the heading of non-pecuniary damage.

¹⁵⁹ Cf. Affidavit made by Kelvin Dial on July 28, 2022, para. 69 (evidence file, folio 2231).

¹⁶⁰ Cf. Affidavit made by Andrew Dottin on July 28, 2022, para. 69 (evidence file, folio 2215).

¹⁶¹ Cf. AG/RES. 2426 (XXXVIII-O/08), Resolution adopted by the OAS General Assembly during its XXXVIII regular session, at the fourth plenary session held on June 3, 2008, “*Establishment of the Legal Assistance Fund of the Inter-American Human*

107. In a note of the Court's Secretariat of March 29, 2022, the President authorized the access of the alleged victims to the said Legal Assistance Fund to cover the presentation of a maximum of three statements. In an order of the President of June 2, 2022, it was specified that the Legal Assistance Fund would cover the reasonable expenses of the preparation and dispatch of three affidavits. On August 4, 2022, the representatives were asked to forward, before August 19, 2022, all the vouchers authenticating the disbursements made for the preparation and dispatch of the affidavits of Messrs. Dial and Dottin, and of expert witness Douglas Mendes SC. The representatives did not respond to this request and, therefore, the Court's Secretariat did not proceed to make a reimbursement.

108. Based on the foregoing, and since the Court's Secretariat did not make any disbursement from the Legal Assistance Fund, the Court does not need to make a ruling in this section.

G. Method of compliance with the payments ordered

109. The State shall make the payment of the compensation for non-pecuniary damage established in this judgment directly to the persons indicated herein, within one year of notification of this judgment, without prejudice to making the complete payment in advance, pursuant to the following paragraphs.

110. If either of the beneficiaries is deceased or dies before he receives the respective amount, this shall be delivered directly to his heirs, in keeping with the applicable domestic law.

111. The State shall comply with its monetary obligations by payment in United States dollars or the equivalent in national currency using, to make the respective calculation, the market exchange rate published or calculated by a pertinent banking or financial authority on the date nearest the day of payment.

112. If, for reasons that can be attributed to the beneficiaries of the compensation or their heirs, it is not possible to pay the sums established within the indicated time frame, the State shall deposit those amounts in their favor in a deposit certificate or account in a solvent financial institution of Trinidad and Tobago, in United States dollars, and in the most favorable financial conditions permitted by banking law and practice. If the corresponding compensation is not claimed, after ten years the amounts shall be returned to the State with the interest accrued.

113. The amounts allocated in this judgment as compensation for non-pecuniary damage shall be delivered to the persons indicated in full, as established in this judgment, without any deductions derived from possible taxes or charges.

114. If the State should incur in arrears, it shall pay interest on the amount owed corresponding to banking interest on arrears in Trinidad and Tobago.

VIII OPERATIVE PARAGRAPHS

115. Therefore,

Rights System," operative paragraph 2(a), and CP/RES. 963 (1728/09), Resolution adopted on November 11, 2009, by the OAS Permanent Council, "Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System," Article 1(1).

THE COURT

DECLARES,

Unanimously, that:

1. The State is responsible for the violation of Article 4(2) of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of this instrument, to the detriment of Kevin Dial and Andrew Dottin, pursuant to paragraphs 44 to 50 of this judgment.
2. The State is responsible for the violation of Article 7(4) of the American Convention on Human Rights, in relation to Article 1(1) of this instrument, to the detriment of Kevin Dial and Andrew Dottin, pursuant to paragraphs 51 to 53 of this judgment.
3. The State is responsible for the violation of Article 8(2)(c) and 8(2)(d) of the American Convention on Human Rights, in relation to Article 1(1) of this instrument, to the detriment of Kevin Dial and Andrew Dottin, pursuant to paragraphs 54 to 57 of this judgment.
4. The State is responsible for the violation of Article 5(1) and 5(2) of the American Convention on Human Rights, in relation to Article 1(1) of this instrument, to the detriment of Kevin Dial and Andrew Dottin, pursuant to paragraphs 63 to 75 and 79 of this judgment.
5. The State is responsible for the violation of Article 17 of the American Convention on Human Rights, in relation to Article 1(1) of this instrument, to the detriment of Kevin Dial, pursuant to paragraphs 76 to 79 of this judgment.

AND ESTABLISHES:

Unanimously, that:

6. This judgment constitutes, *per se*, a form of reparation.
7. The State shall establish a mechanism in order to review the prison sentence imposed on Messrs. Dial and Dottin, pursuant to paragraphs 87 and 88 of this judgment.
8. The State shall make the publications indicated in paragraph 89 of this judgment.
9. The State shall pay the amounts established in paragraph 104 of this judgment for non-pecuniary damage, pursuant to paragraphs 109 to 114 of this judgment.
10. The State, within one year of notification of this judgment, shall provide the Court with a report on the measures adopted to comply with it.
11. The Court will monitor full compliance with this judgment in exercise of its authority and in fulfilment of its duties under the American Convention on Human Rights and will consider this case closed when the State has complied fully with its provisions.

DONE, at San José, Costa Rica, on November 21, 2022, in the Spanish language.

Corte IDH. *Case of Dial et al. V. Trinidad and Tobago*. Merits and Reparations. Judgment of November 21, 2022.

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
Secretary

So ordered,

Ricardo C. Pérez Manrique
President

Pablo Saavedra Alessandri
Secretary