

OEA/Ser.L/V/II.155
Doc. 29
July 28, 2015
Original: Spanish

REPORT No. 49/15
CASE 12.585

REPORT ON THE MERITS

ÁNGEL PACHECO LEÓN AND FAMILY
HONDURAS

Approved by the Commission at its session No. 2044 held on July 28, 2015
155 Regular Period of Sessions

Cite as: IACHR, Report No. 49/15, Case 12.585, Merits, Ángel Pacheco León and family,
Honduras, July 28, 2015.

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I. SUMMARY

1. On August, 2004, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “IACHR”) received a petition filed by Marleny Pacheco Posadas¹ (hereinafter “the petitioners”) alleging the international responsibility of the Republic of Honduras (hereinafter “the Honduran State,” “Honduras,” or “the State”) for the killing of Ángel Pacheco León, which occurred on November 23, 2001, and for its failure to investigate, prosecute, and punish those responsible.

2. According to the petitioners, Ángel Pacheco León was killed because he had been elected congressperson and his killing had been planned and carried out by various persons, including other congresspersons and a police officer. They pointed out that the investigation of Mr. Pacheco's killing was not sound or effective because certain indispensable steps had not been taken, the proceedings had remained inactive for long periods of time, and evidence had been destroyed. They pointed out that, to date, the proceedings continue to be in the preliminary stage, the facts involved in the death of Mr. Pacheco have not been clarified, and those responsible for the crime have been neither identified nor punished.

3. The State challenged the facts alleged by the petitioners. It alleged that, after the death of Mr. Ángel Pacheco León, a court investigation was undertaken, in which many steps were taken. It indicated that, although to date the persons responsible had not been identified, the duration of the proceedings is not unreasonable because the case is complex. It also argued that it continues to carry out investigations to punish the instigators and perpetrators of the crime.

4. After review of the information available, the Commission concludes that the State of Honduras is responsible for violating the rights to a fair trial and to judicial protection, as set forth in Articles 8.1 and 25.1 of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) in connection with Article 1.1 of the same instrument, to the detriment of the next of kin of Ángel Pacheco. Likewise, on the basis of the principle *iura novit curia*, the IACHR concludes that the State is responsible for violating the right to life and the political rights as set forth in Articles 4.1 and 23 of the American Convention in connection with the obligations set forth in Article 1.1, to the detriment of Ángel Pacheco León. Finally, the Commission establishes the violation of the right to personal integrity as established in Article 5.1 of the American Convention, in connection with the obligations set forth in Article 1.1 of the Convention, to the detriment of the next of kin of Ángel Pacheco. On the basis of said conclusions, the IACHR makes its recommendations to the State of Honduras.

II. PROCEEDINGS WITH THE COMMISSION

5. On the basis of the communication of August 27, 2004, Marleny Pacheco Posadas filed the initial petition. The proceedings, since the filing of the petition up to the decision taken on admissibility, are explained in detail in the report on admissibility 118/06 of October 26, 2006.² In said report, the IACHR concluded that the petition was admissible with respect to the rights contained in Articles 8 and 25 of the American Convention, in keeping with Article 1.1 of the Convention.

¹ Afterwards, the Committee of Next of Kin of Disappeared Arrested Persons in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras—COFADEH) became a co-petitioner of the case.

² See IACHR, Report No. 118/06, Petition 848-04, Admissibility, Ángel Pacheco León, Honduras, October 26, 2006. Available at: <http://www.cidh.oas.org/annualrep/2006sp/Honduras848.04sp.htm>

6. On November 1, 2006, the Commission forwarded the admissibility report to the parties. It also informed the parties that, in line with Article 38.2 of its Rules of Procedure, it was at the disposal of the parties to reach a friendly settlement. On December 31, 2006, the petitioners submitted their observations on the merits. As for the State, it submitted its observations on the merits on May 18, 2007.

7. Afterwards, the petitioners submitted communications on July 24, 2007, January 30, 2008, January 28, 2009, June 24, 2012, and March 13, 2013. Furthermore, the State filed communications on November 29, 2007, December 5, 2008, and May 25 and October 25, 2012. All communications were duly forwarded to the parties. Likewise, on October 14, 2014, IACHR held a public hearing on the case at the 153rd period of sessions.

III. POSITION OF THE PARTIES

A. Position of the petitioners

8. The petitioners indicated that the State is responsible for the killing of Ángel Pacheco León, which took place on November 23, 2001, as well as for the absence of an investigation clarifying what happened and punishment of those responsible for said crime. They pointed out that the homicide of Mr. Pacheco took place in a context of impunity in Honduras, in particular when killings were linked to politics.

9. As for the rights to a fair trial and to judicial protection, the petitioners indicated that, although they had started an investigation of the events, to date, almost 14 years after Mr. Pacheco was killed, the proceedings continue to be at a preliminary stage and not one single person has been punished.

10. They indicated that, on the same day as the killing of Mr. Pacheco, three persons were arrested without any evidence against them. They contended that, only two years later, the prosecutor in charge recognized that these persons were in no way responsible for the crime. The petitioners indicated that this led to unnecessary and excessive delays as a result of which the investigation of the true perpetrators of the crime came to a standstill.

11. The petitioners pointed out that the State did not adopt the minimum requirements established in the Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol). They indicated that the crime scene was not isolated by a police cordon and that the authorities did not take note of the presence of motor vehicles in the immediate surroundings of the crime scene that could be compared with the descriptions provided subsequently by Mr. Pacheco's next of kin .

12. They also alleged that the initial investigation was marked by long periods of paralysis in its proceedings, including the destruction of Mr. Pacheco's blood samples taken during his autopsy. They indicated that the proceedings were set in motion again only after Mr. Pacheco's next of kin filed a complaint with the Special Prosecution Office for Human Rights of the Attorney General's Office for a denial of justice in July 2004. They added that, in September 2005, Mr. Pacheco's body was disinterred in order to take DNA samples, which were also destroyed.

13. The petitioners contended that both the prosecution and court authorities were negligent in gathering evidence that could have reasonably involved the responsibility of various persons, including public officials accused of having sent death threats to Ángel Pacheco León since he had won the primaries to represent the National Party as a candidate to be a congressperson in the National Congress. They identified the following persons: Rafael Callejas, Benjamín and Salvador Cárdenas, Raúl Pino, Jorge Berrios, Juan Che, and Manuel Vides. The petitioners pointed out that not all the persons mentioned or all the witnesses who held information about the threats made before Mr. Pacheco's death were subpoenaed. They added there was no evidence that these suspects were searched for firearms or motor vehicles.

14. They alleged that access to court proceedings had been restricted. They indicated that, on various occasions, they were not able to have access to the proceedings of the Attorney General's Office. They

contended that the proceedings are still in the pre-trial investigative stage although this stage should extend for 30 days at the most.

15. As for international responsibility for violation to the right to life, the petitioners informed that, before he was killed, Mr. Pacheco won the primaries for the National Party in the Department of Valle, as a result of which he was a candidate for a seat in the National Congress in the elections that were to be held on November 25, 2001. They pointed out that, after winning the primaries, he received death threats demanding that he withdraw from the electoral race from various persons whose interests were going to be undermined if he won the election, including one mayor, congresspersons, and a police officer. They added that these persons demanded that he withdraw his candidacy to the seat of congressperson.

16. Regarding political rights, they contended that the State had the obligation of creating the conditions needed for Ángel Pacheco to freely exercise his political activities, without any harassment or danger, which did not happen. They added that Mr. Pacheco was at the top of the polls to win the election as congressperson in the National Congress of Honduras, which was confirmed when his brother José Pacheco took his place and was elected as congressperson. In that respect, the petitioners alleged that the killing of Ángel Pacheco breached his right to be elected to political office.

17. Finally, the petitioners alleged violation of the right to personal integrity to the detriment of the next of kin of Mr. Pacheco León. They indicated that the way in which Ángel Pacheco was killed, as well as the constant denial of justice and the situation of impunity that they have experienced, has led to suffering and distress. They also reported various threats that several family members of Mr. Pacheco had received, the State's failure to adopt security measures, and its failure to investigate these incidents.

B. Position of the State

18. The State contended that, since November 23, 2001, date on which Mr. Pacheco was killed, on the basis of its various administrators of justice, it has guaranteed the right to due process of law and has made efforts to identify the instigators and perpetrators of this crime.

19. It pointed out that initially three persons were charged for the crime and that a warrant was issued for their arrest and imprisonment. It contended that, afterwards, because of steps taken and the absence of evidence against them, these persons were released.

20. The State indicated that the criminal proceedings for the death of Mr. Pacheco León continue to be in the investigative stage and that, to date, the instigators and perpetrators of the crime have not been identified. It pointed out that, nevertheless, many steps have been taken to find out the facts and punish those responsible, but they have turned out to be unfruitful. Among them, the State stresses the depositions by suspects and witnesses, the onsite visual inspections, as well as the disinterment of the body of Mr. Pacheco León to draw a DNA sample and its analysis with the evidence obtained. He also contended that the petitioners have had physical access to the interventions in the proceedings.

21. Regarding some of the flaws in the investigation, the State pointed out that certain key witnesses in the case have refused to be questioned "because they fear for their life." It contended that it proceeded to set in motion a witness protection system for some persons. It also recognized that Mr. Pacheco's blood sample drawn during his autopsy was destroyed because "the engine of the cold storage room where the sample was located broke down because of the blowout of an electric power transformer in the building."

22. As for the extensive time-period of the proceedings, it indicated that it was reasonable because the case was complex. The State explained that the case was deemed to be complex because there was more than one suspect as the instigator and perpetrator of the crime.

23. As for the alleged violation of the right to life, the State indicated that it would not issue any viewpoint about this because said right was not examined in the admissibility report on the present case. It

contended that, without detriment to the above, reports about threats against Mr. Pacheco had never been received. It added that indications of threats “in various cases have turned out to be difficult to prove.”

24. Regarding the alleged threats suffered by Mr. Pacheco’s next of kin, the State stated that it did not have any knowledge about the reporting of these threats to authorities having jurisdiction.

IV. REVIEW OF THE MERITS

A. Proven facts

1. The situation of Ángel Pacheco León before his death

25. Ángel Pacheco León was born in the Department of Valle³ on December 23, 1958.⁴ At the time of the events, Mr. Pacheco was 42 years old.⁵ According to the petitioners, Mr. Pacheco’s next of kin are: i) his mother Andrea Pacheco; ii) his spouse Blanca Rosa Herrera; iii) his brothers and sisters Otilia, Concepción, José, Blanca, María, Francisco, Norma, Marleny, Jamileth, Jaqueline, and Jorge, who all bear the Pacheco surname; iv) his sons and daughters Jimmy Pacheco, Miguel Ángel Pacheco; Cinthia Pacheco Devicente, Miguel Pacheco Devicente, Tania Pacheco López, Juan Pacheco Euceda, and Bianca Pacheco Herrera.⁶

26. The Commission observes that there is no question that Mr. Pacheco became a member of the National Party and that, in 2001, submitted his candidacy to be a congressperson for the Department of Valle in the National Congress of Honduras.⁷ Mr. Pacheco ended up winning the primaries for the National Party, as a result of which he appeared as the candidate to be the standing congressperson for the term of office 2002-2006 in the elections that took place on November 25, 2001.⁸

2. The threats to Ángel Pacheco León

27. According to the petitioners and next of kin (see below paragraphs 29-40), as well as the reports submitted by them to state authorities in the context of the investigation, Mr. Ángel Pacheco was threatened on various occasions after having won the primaries in 2001 by the following persons: i) Rafael Callejas, at the time candidate for the office of President of the Republic; ii) Benjamín Cárdenas, former congressperson; iii) Salvador Cárdenas, former member of the Armed Forces; iv) Raúl Pino, alternate congressperson; v) Manuel Vides, congressperson at the time; vi) Juan José Quiroz, known as Juan Che, mayor of Amapala at the time; and vii) Jorge Berrios, former congressperson.

28. Regarding this, the petitioners pointed out to the IACHR that he was summoned by the former President Rafael Leonard Callejas and his father to a meeting.⁹ They stated that, at this meeting, which was also attended by President Ricardo Maduro, Rafael Callejas demanded that Mr. Pacheco yield his office as congressperson to Raúl Pino Rodríguez, to which Mr. Pacheco answered that he would not.¹⁰ Afterwards, they

³ Communication from the petitioners received by the IACHR on August 27, 2004.

⁴ Press clipping “Crimen no quedará impune” [Crime will not go unpunished] of November 24, 2001. Page 35. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵ Communication from the petitioners received by the IACHR on August 27, 2004.

⁶ Form. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Communication from the petitioners of June 24, 2012.

⁷ Communication from the petitioners received by the IACHR on August 27, 2004. Communication from the petitioners submitted at a hearing with the IACHR on October 30, 2014.

⁸ Communication from the petitioners received by the IACHR on August 27, 2004.

⁹ Communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹⁰ Communication from the petitioners received by IACHR on August 27, 2004.

contended that Mr. Pacheco was summoned again by Rafael Callejas to another meeting.¹¹ They stated that Ricardo Maduro suggested that Mr. Pacheco not go to this meeting “because they wanted to kill him.”¹² Ángel Pacheco’s sister, Marley, indicated that these facts were told by the alleged victim to his mother Andrea Pacheco and brother José Pacheco.¹³

29. Marleny Pacheco also stated in the Court of First Instance (Juzgado Seccional de Letras) that Ángel Pacheco received threats from Benjamín Cárdenas, former congressperson, because of his participation in politics. He pointed out that Mr. Cárdenas forbade Ángel Pacheco from going to the locality of Lange telling him “you have to ask permission to enter.”¹⁴

30. José Benavides, Mr. Pacheco’s friend, also stated at the Court of First Instance in November 2001 that the alleged victim had commented that he was afraid because of political rivalries and that he had even been threatened by phone.¹⁵ He pointed out that Mr. Pacheco had heated arguments with Mr. Raúl Pino, alternate congressperson at the time; Mr. Jorge Berrios, former congressperson; and Juan José Quiroz, also known as Juan Che and mayor of Amapala at the time.¹⁶

31. Soraya Reyes, who worked with Mr. Pacheco, stated at the Court of First Instance that, on one occasion, she witnessed an incident in which the alleged victim was threatened by Benjamín Cárdenas, former congressperson, and his brother Salvador.¹⁷ She indicated that Benjamín Cárdenas told Mr. Pacheco “that if he was left on the sidelines and was not taken into account he would not live to tell the tale.”¹⁸ He added that Mr. Cárdenas seemed to be drunk and his brother was carrying a gun.¹⁹ According to the petitioners, Mr. Salvador Cárdenas was a former police officer of Battalion No. 357 of the Armed Forces.²⁰

32. José Benavides, who worked for Mr. Pacheco’s campaign, also stated at the General Criminal Investigation Department (Dirección General de Investigación Criminal—DGIC) that Mr. Benjamín Cárdenas threatened the alleged victim, saying that he should watch out and that he would never become a congressperson.²¹

33. As for Héctor Jiménez, who worked for Mr. Pacheco’s campaign, he stated at the DGIC that once, in the municipality of Langué, the alleged victim was threatened with a firearm by Mr. Benjamín Cárdenas.²² He indicated that Mr. Pacheco told him that the threat that had been received turned out to be

¹¹ Communication from the petitioners received by IACHR on August 27, 2004.

¹² Communication from the petitioners of December 31, 2006.

¹³ Statement made by Marleny Pacheco at the Court of First Instance on July 5, 2004. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁴ Statement made by Marleny Pacheco at the Court of First Instance on July 5, 2004. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁵ Statement made by José Benavides at the Court of First Instance. Pages 47-48. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁶ Statement made by José Benavides at the Court of First Instance. Pages 47-48. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁷ Statement made by Soraya Reyes at the Court of First Instance on November 27, 2001. Pages 76-77. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁸ Statement made by Soraya Reyes at the Court of First Instance on November 27, 2001. Pages 76-77. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

¹⁹ Statement made by Soraya Reyes at the Court of First Instance on November 27, 2001. Pages 3-4 of the court case file. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

²⁰ Communication from the petitioners of December 31, 2006.

²¹ Statement made by José Benavides at the DGIC, on November 27, 2001. Pages 5-6 of the court case file. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

²² Statement made by Héctor Jiménez to the DGIC on November 24, 2001. Pages 9-10 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

true because “he wanted him to accept his proposals by force.”²³ He also contended that Mr. Pacheco had told him that Jorge Berrios was hostile and jealous of him because Mr. Berrios wanted the alleged victim to hand over the entire Coordination of Goascorán to him.²⁴

34. Furthermore, Marleny Pacheco, Mr. Pacheco’s sister, declared that Raúl Rodríguez Pino, Juan Che, Benjamín Cárdenas, Jorge Berrios, and Salvador Cárdenas made direct threats over the phone against the alleged victim.²⁵ She stated that, on one occasion, in front of various persons, Benjamín Cárdenas told Mr. Pacheco that “he would cut his balls off and feed them to a dog if he managed to make it to Congress.”²⁶

35. She indicated that Mr. Raúl Pino cornered Ángel Pacheco with a gun in a restaurant in San Lorenzo and told him “what you’ve worked for (...) you will not (...) enjoy.”²⁷ She pointed out that there were witnesses to these incidents.²⁸ She contended that Mr. Pacheco's followers took him out of the restaurant through the back door because “if he went out the front door, there were three persons with AK-47s waiting to kill him.”²⁹ Marleny Pacheco stated that, when Mr. Ángel Pacheco went to pay a visit to Juan Che, mayor of Amapala at the time, the latter told him “to get off his property otherwise he would shoot him.”³⁰

36. María Regina Pacheco stated that her brother Ángel Pacheco received threats over the phone from Raúl Pino, who said that “I will kill you and your entire family.”³¹

37. Miguel Ángel Pacheco also stated that his father Ángel Pacheco told Raúl Pino, Jorge Berrios, Benjamín Cardenas, and Juan Che, mayor of Amapala at the time, that “they were jealous of him because it was the first time that he got involved in politics and he had managed to become standing congressperson.”³² He contended that Mr. Pacheco told him that if he won the election and “became aware of any illegalities committed by them, he would report them so that they could be jailed.”³³ He stated that Ángel Pacheco had told him that he was afraid of going to Amapala because of the threats that he had received from Juan Che and Raúl Pino.³⁴

²³ Statement made by Héctor Jiménez to the DGIC on November 24, 2001. Pages 9-10 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁴ Statement made by Héctor Jiménez to the DGIC on November 24, 2001. Pages 9-10 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁵ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁶ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁷ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁸ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

²⁹ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

³⁰ Statement made by Marleny Pacheco on November 4, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

³¹ Statement made by María Regina Pacheco on July 6, 2004. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

³² Statement made by Miguel Angel Pacheco on July 1, 2005. Annex to the communication from the petitioners of December 16, 2005.

³³ Statement made by Miguel Angel Pacheco on July 1, 2005. Annex to the communication from the petitioners of December 16, 2005.

³⁴ Statement made by Miguel Angel Pacheco on July 1, 2005. Annex to the communication from the petitioners of December 16, 2005.

38. José Federico Cruz, who worked with Ángel Pacheco, pointed out that the alleged victim was threatened by Jorge Berrios, Raúl Pino, Juan José Quiroz, and Benjamín Cárdenas.³⁵ As for Oscar Oliva, who worked for Mr. Pacheco's campaign, he stated that Mr. Pacheco told him, a few days before he died, that he felt extremely threatened.³⁶

39. The petitioners also alleged that Manuel Antonio Vides, congressperson of the Liberal Party at the time, had many arguments with Ángel Pacheco after the latter won the primaries.³⁷

3. The killing of Ángel Pacheco León

40. According to various statements, on November 23, 2001, Ángel Pacheco León was with his sons Yimmy and Miguel Ángel, as well as his bodyguard,³⁸ Jorge Carbajal.³⁹ They indicated that Mr. Pacheco had been attending various meetings throughout the day and had returned home, located in the city of Nacaome, Department of Valle, a bit before midnight.⁴⁰

41. Ángel Pacheco asked Mr. Carbajal and his son Miguel Ángel to bring a car that was parked a couple of blocks away from his home.⁴¹ Mr. Pacheco's son, Yimmy, pointed out that, when he was alone with his father in front of their house, a man came up and shot Ángel Pacheco. Yimmy stated that the person also tried to shoot him as well but his gun had run out of bullets.⁴² He added that the person went running toward a white pickup truck that left in an unknown direction.⁴³ Ángel Pacheco was taken to the San Lorenzo Hospital although he had already died.⁴⁴

42. María Regina Pacheco, Ángel Pacheco's sister, pointed out that, on the day of the alleged victim's death, there were two police patrol cars close to where the crime took place.⁴⁵ She contended that, although these patrol cars saw a car pass by at full speed, they did not stop or chase after the white pickup

³⁵ Statement made by José Federico Cruz on July 1, 2005. Annex to the communication from the petitioners of December 16, 2005.

³⁶ Statement made by Oscar Oliva on November 29, 2001. Pages 15-16 of the court case file. Annex to the communication from the petitioners received by IACHR on August 27, 2004.

³⁷ Communication from the petitioners submitted at a hearing with the IACHR on October 30, 2014.

³⁸ On the basis of information available, he was a privately hired bodyguard.

³⁹ Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Miguel Angel Pacheco on November 27, 2001. Pages 82-83. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Jorge Carbajal. Pages 38-40. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁰ Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Miguel Angel Pacheco on November 27, 2001. Pages 82-83. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Jorge Carbajal. Pages 38-40. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴¹ Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Miguel Angel Pacheco on November 27, 2001. Pages 82-83. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Jorge Carbajal. Pages 38-40. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴² Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴³ Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁴ Statement made by Yimmy Pacheco, no date. Pages 80-81. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Miguel Angel Pacheco on November 27, 2001. Pages 82-83. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Statement made by Jorge Carbajal. Pages 38-40. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁵ Statement made by María Regina Pacheco on July 6, 2004. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

truck that was used by the persons responsible for fleeing.⁴⁶ She added that chief of the police station at the time was a good friend of Benjamín Cárdenas, former congressperson; Jorge Berrios, former congressperson; and Salvador Cárdenas, former member of the Armed Forces.⁴⁷

4. The investigation

43. As a preliminary observation, the Commission notes that it does not have the full up-to-date court record of the case. The IACHR observes that the State, in its communication of October 25, 2012, attached a copy of the court record from the Court of Appeal of the Department of Choluteca concerning the death of Ángel Pacheco León. The Commission stressed that the last page of the copy of said court record is a letter of November 2005.

44. With respect to the investigation of the death of Ángel Pacheco León, according to a report from the Secretariat for Security, on November 24, 2001, a search of the crime scene took place and bullet casings, bullet fragments, and a check from Mr. Eloy Bonilla were found.⁴⁸

45. A technical expert from the DGIC stated that he was called at 8:00 a.m. to conduct the search and look for evidence at the crime scene.⁴⁹ He indicated that, when he arrived, he found that “the crime scene had been tamper[e]d with and that he saw shoe prints in blood stains.”⁵⁰ As for the court, it requested the results of the autopsy.⁵¹

46. On the following day, the General Director for Preventive Policing issued a report indicating that three persons—Jerhing Maldonado, Hector Estrada, and Alberto Vigil—were arrested as suspects in the death of Ángel Pacheco.⁵² The police officer Wilmer Marten stated that Hector Estrada and Alberto Vigil were arrested when they were found in a white car where stains believed to be drops of human blood were detected⁵³ in the back seat.⁵⁴ Jerhing Maldonado was arrested outside the headquarters of the Liberal Party.⁵⁵

47. On November 27, 2001, there was a police lineup of the three persons arrested for identification by Mr. Pacheco’s son, Yimmy Pacheco.⁵⁶ Yimmy Pacheco did not recognize the three arrested persons and said that the car confiscated from Messrs. Estrada and Vigil was not the same as the one he saw on the day of this father death.⁵⁷

⁴⁶ Statement made by María Regina Pacheco on July 6, 2004. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁷ Statement made by María Regina Pacheco on July 6, 2004. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁸ Report No. 195-2001 from the Secretariat for Security. Pages 28-34 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁴⁹ Statement made by Carlos Rodríguez on December 6, 2001. Pages 81-82 of court proceedings. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵⁰ Statement made by Carlos Rodríguez on December 6, 2001. Pages 81-82 of court proceedings. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵¹ Court writ of November 24, 2001. Pages 132-133. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵² Special Report from the General Directorate for Preventive Policing of November 25, 2001. Pages 119-120. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵³ Afterwards, however, it was determined that said stains pertained to meat that said motor vehicle was carrying.

⁵⁴ Statement made by Wilmer Marte. Page 9. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵⁵ Prison warrant against Jerhing Maldonado by the Court of First Instance. Page 37. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵⁶ Court Notification. Page 73. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵⁷ Court Notification. Page 73. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

48. On November 27, 2001, Mr. José Pacheco, brother of the alleged victim, filed a complaint with the Attorney General's Office for the killing of his brother Ángel.⁵⁸ In that complaint, he requested that the facts involved in Ángel Pacheco's death be clarified and that all persons responsible be investigated.⁵⁹

49. On November 30, 2001, the Court of First Instance issued a report indicating that the blood found in the car of Messrs. Estrada and Vigil matched Mr. Pacheco's blood type.⁶⁰ Because of this the Court issued a warrant for the imprisonment of Hector Estrada and Alberto Vigil as possible suspects for the crime of killing Ángel Pacheco León.⁶¹ The court also pointed out that "as the merits were insufficient" Jerhing Maldonado should be released.⁶²

50. On December 7, 2001, Olga García, employee of the Ministry of Security, and Dennis Castro, forensic advisor to the Judiciary, appeared before the Court of First Instance of Nacaome, Valle.⁶³ They indicated that, in the case of Mr. Ángel Pacheco's death, the chain of blood sample studies was not followed in accordance to domestic law, nor were steps taken to adequately pack evidence that was submitted.⁶⁴ As for the State, it recognized that Mr. Pacheco's blood sample obtained during his autopsy was destroyed because "the engine of the cold storage room where the sample was located broke down because of the blowout of an electric power transformer in the building."⁶⁵

51. On December 20, 2001, the DGIC submitted an investigative report.⁶⁶ It indicated that after Mr. Pacheco's death, the following was carried out: i) identification of the body; ii) an onsite visual inspection of the crime scene to gather evidence, which was sent to the laboratories; iii) the mapping of the crime scene; and iv) interviews with persons who knew Ángel Pacheco "from which no positive result was obtained to identify those responsible."⁶⁷

52. The report pointed out that, in line with the statements that were taken, Mr. Pacheco "on various occasions received death threats from persons who belonged to his own political party" such as Raúl Pino, Benjamín Cárdenas, and Salvador Cárdenas.⁶⁸ It was mentioned that "these gentlemen accosted the victim on various occasions and threatened to kill him."⁶⁹

⁵⁸ Criminal complaint. Pages 43-44 of court proceedings. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁵⁹ Criminal complaint. Pages 43-44 of court proceedings. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁰ Order of imprisonment. Page 37. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶¹ Order of imprisonment. Page 37. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶² Order of imprisonment. Page 37. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶³ Appearance. Issuance of ruling of December 7, 2001. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁴ Appearance. Issuance of ruling of December 7, 2001. Pages 2-3. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁵ State Communication of May 18, 2007.

⁶⁶ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁷ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁸ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁶⁹ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

53. The report concluded that, according to versions of witnesses “who are afraid of having their statements taken in writing for fear of being killed,” “there is a group of persons who were the ones who planned the death of Mr. Ángel (...) the day before the incident.”⁷⁰ The persons identified as suspects were Benjamín Cárdenas, alternate congressperson at that time, Manuel Antonio Vides, congressperson at that time, Hector Efrain Estrada, under arrest, and Salvador Cárdenas.⁷¹ It was pointed out that “all of these gentlemen were seen in a restaurant close to Nacaome, Valle, where they spoke about how to kill Ángel Pacheco León, and it was also mentioned that, in that group, there was a preventive police officer, whose name is currently not known.”⁷² The regional coordinator of DGIC was asked “to take the steps needed to provide protection to this witness so that he could make a statement in court and as a result move forward with the investigation.”⁷³

54. On February 11, 2002, DGIC submitted a new report.⁷⁴ It indicated that “currently in the file of the investigation the following gentlemen are viewed as suspects: Benjamín Cárdenas, Jorge Berríos Escoto, Wilfredo Cárdenas Romero, Salvador Cárdenas Romero, Raúl Pino, and Manuel Vides, all of them suspected of having been involved in planning and executing Mr. Pacheco.”⁷⁵

55. The report pointed out that, in January 2002, the homes of the Cárdenas brothers and Jorge Berríos were searched and various arms were found and confiscated.⁷⁶ It was indicated that there are witnesses who know the Cárdenas brothers and who have stated that “they could be involved in the incident because the victim had personal problems with these gentlemen because of politics.”⁷⁷

56. Likewise, it was indicated in this report that information was obtained that, a week before Ángel Pacheco was killed, Mr. Benjamín Cárdenas bought a 9mm firearm, which is the type of firearm that was used to kill the alleged victim.⁷⁸ It was pointed out that “with the statements set forth in the case file and the verbal versions of the witnesses, it can be said that these individuals may have been the masterminds behind the killing of Mr. Pacheco, but as yet there is no single evidence that might prove their involvement in the crime.”⁷⁹ The Director of DGIC was requested to facilitate an order for this specific case because some of the suspected persons travel between Valle, Choluteca, Tegucigalpa, and Olancha.⁸⁰ It was indicated that

⁷⁰ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷¹ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷² Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷³ Investigation report of December 20, 2001. Pages 123-125 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁴ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁵ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁶ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁷ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁸ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁷⁹ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁰ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

“sometimes we have wanted to monitor them, but it was impossible to do so in the motor vehicles of the Regional Office of Choluteca, because these individuals know which ones they are.”⁸¹

57. On May 3, 2002, the Court of Appeals of Choluteca confirmed the cancellation of the warrants for the imprisonment of Messrs. Estrada and Vigil “because it was deemed that there were no reasonable clues that they might be the perpetrators of the crime being investigated.”⁸²

58. On November 28, 2002, the DGIC issued a report indicating that Messrs. Benjamín Cárdenas, Jorge Berrios, Wilfredo and Salvador Cárdenas, Raúl Pino and Manuel Vides, the latter second congressperson for the Liberal Party, were involved in the case because of problems that took place before the crime “but there is no evidence involving them in the killing” of Ángel Pacheco León.⁸³ The report indicates that Santos Jiménez, DGIC’s acting coordinator, stated that the person who shot Mr. Pacheco could have been the police officer called Santos Mendoza, who would do jobs for Jorge Berrios and who, at that time, was stationed at the General Headquarters of Casamata.⁸⁴

59. On October 14, 2002, the defense attorney for the three persons accused of killing Mr. Pacheco requested the Court to definitively dismiss the case.⁸⁵ He indicated that, to date, there was no sufficient clue or motive for considering them responsible for the crime.⁸⁶ He reiterated his request on March 28, 2003 and contended that too much time had elapsed in processing the request.⁸⁷ According to the petitioners, on May 3, 2003, the Court of Appeals confirmed dismissal of the charges against the persons accused “because it considered that there were no reasonable clues on who the perpetrators of the crime were.”⁸⁸

60. In line with what was reported by the petitioners, which has not been challenged by the State, on July 6, 2004, Marleny, Regina, and José Pacheco requested the intervention of the Office of the Human Rights Prosecutor “because they felt that their right to justice was being denied and they filed a complaint against the masterminds behind their brother’s killing.”⁸⁹

61. On July 15, 2004, the Prosecutor of the Attorney General's Office of the Department of Valle submitted a report on the status of the investigation.⁹⁰ It indicated that the “expert report on the autopsy (...)”

⁸¹ Investigation report of February 11, 2002. Pages 127-129 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸² Memorandum of the Prosecutor of the Attorney General's Office of the Department of Valle of July 15, 2004. Annex to the communication from the petitioners of September 29, 2004.

⁸³ DGIC Report of November 28, 2001. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁴ DGIC Report of November 28, 2001. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁵ Request for dismissal of October 14, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁶ Request for dismissal of October 14, 2002. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁷ Request for dismissal of March 28, 2003. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

⁸⁸ Communication from the petitioners submitted at the IACHR hearing on October 30, 2014.

⁸⁹ Communication from the petitioners submitted at the IACHR hearing on October 30, 2014.

⁹⁰ Memorandum of the Prosecutor of the Attorney General's Office of the Department of Valle of July 15, 2004. Annex to the communication from the petitioners of September 29, 2004.

of Mr. Ángel León Pacheco was not in the court record.”⁹¹ Likewise, it was indicated that “the last action taken by the prosecution is an identity card notification request” of February 13, 2002.⁹²

62. According to what was indicated by the parties at the public hearing with the IACHR, in 2005, Ángel Pacheco’s mortal remains were disinterred in order to draw DNA samples, which were examined and compared with evidence found at the crime scene.⁹³ They added that after the analysis they did not find any positive results.⁹⁴ According to a letter of May 9, 2005 from the Crime and Forensic Laboratory of the Forensic Medicine Department, Mr. Ángel Pacheco’s DNA samples “were destroyed.”⁹⁵ On the basis of available information, the IACHR has not been able to identify the context in which this disinterment took place or who requested it or the concrete evidence used to compare DNA evidence.

63. On March 1, 2010, the Prosecutor Osmin Alvarado forwarded a report to the Regional Coordination of the Prosecution Service of the southern zone.⁹⁶ It indicated that the National Criminal Investigation Department (Dirección Nacional de Investigación Criminal—DNIC) dismantled the team that was investigating the case “without being interested subsequently or currently in solving the case, as a result of which the investigations have come to a standstill.”⁹⁷ It was recommended that a decision be taken to assign special staff “which would therefore require a team of investigators and technical experts, as well as the logistics to move forward.”⁹⁸

64. Likewise, the report concluded that “the DNIC has not brought any element of evidence that would make it possible to identify the perpetrators or instigators of said crime.”⁹⁹ It added that “the only hypothesis that continues to be used is that the perpetrator of the crime was a preventive police officer and that the instigators were Benjamín Cárdenas, Manuel Vides, and a man known as CHICHO, and that to date no statement or element of proof has been provided that would justify or substantiate such proceedings.”

5. Threats to the next of kin of Mr. Pacheco León

65. After the death of Ángel Pacheco León, his brother José was declared congressperson-elect of the National Congress of Honduras for the term of office extending from January 25, 2002 to January 25, 2006.¹⁰⁰ The petitioners pointed out that, after taking office, Mr. José Pacheco verbally requested the Minister of Security at the time to provide him with measures of protection.¹⁰¹ They indicated that his request was

⁹¹ Memorandum of the Prosecutor of the Attorney General’s Office of the Department of Valle of July 15, 2004. Annex to the communication from the petitioners of September 29, 2004.

⁹² Memorandum of the Prosecutor of the Attorney General’s Office of the Department of Valle of July 15, 2004. Annex to the communication from the petitioners of September 29, 2004.

⁹³ IACHR, Public hearing of October 14, 2014. 153rd period of sessions. Available at: <https://www.youtube.com/watch?v=vwvkbeQgHLo>

⁹⁴ IACHR, Public hearing of October 14, 2014. 153rd period of sessions. Available at: <https://www.youtube.com/watch?v=vwvkbeQgHLo>

⁹⁵ Official communication from the Crime and Forensic Laboratory of the Forensic Medicine Department of May 9, 2005. Annex to the communication from the petitioners of December 16, 2005.

⁹⁶ Communication to the Regional Coordinator of the Prosecution Office of the southern zone of March 1, 2010. Annex to the communication from the petitioners of March 13, 2013.

⁹⁷ Communication to the Regional Coordinator of the Prosecution Office of the southern zone of March 1, 2010. Annex to the communication from the petitioners of March 13, 2013.

⁹⁸ Communication to the Regional Coordinator of the Prosecution Office of the southern zone of March 1, 2010. Annex to the communication from the petitioners of March 13, 2013.

⁹⁹ Communication to the Regional Coordinator of the Prosecution Office of the southern zone of March 1, 2010. Annex to the communication from the petitioners of March 13, 2013.

¹⁰⁰ Credential of the Republic of Honduras. Page 2 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹⁰¹ Communication from the petitioners of July 24, 2007.

made because he feared that what had happened to his brother would happen to him as well.¹⁰² They indicated, for example, that a motor vehicle that had the same features as his and which was parked close to his home was stolen. The petitioners indicated that the Minister of Security at the time told Mr. Pacheco that "he had neither the budget resources nor enough staff to provide him with any security."¹⁰³

66. Furthermore, according to the petitioners and as indicated in certain complaints filed by José and Nancy Pacheco, Mr. José Pacheco was the victim of various threats after the above-mentioned incident. Information available about these threats and complaints is provided below.

67. Nancy Lizeth Pacheco stated in court that, on September 27, 2002, a group of persons broke into the home of her brother José Pacheco and took documents related to Ángel Pacheco's death.¹⁰⁴ According to the information provided by the petitioners, because of this incident, José Pacheco obtained a hearing with the President of the Republic at that time, Ricardo Maduro.¹⁰⁵ They indicated that the President at that time had requested the corresponding entities to provide Mr. Pacheco with protection, which was never carried out.¹⁰⁶ The petitioners indicated that, in the face of persistent threats, on April 24, 2003, José Pacheco requested protection from the Director of the National Preventive Police, Coralia Rivera Ramos, which request was turned down.¹⁰⁷ They stated that Mr. Pacheco also reported these facts to the assistant prosecutor in charge of investigating the killing of his brother Ángel¹⁰⁸.

68. The petitioners also informed that, on May 17, 2003, Mr. Pacheco's motor vehicle was violently broken into by unknown persons, who also stole a video camera with which he would shoot his political activities.¹⁰⁹ As for Mr. Pacheco, he reported to the DGIC that, on April 24, 2003, he was leaving his home and saw on the door of the left-hand side of his car a sign reading "DEAD."¹¹⁰ Mr. Pacheco indicated that he suspected that the persons responsible for this incident were the same who killed his brother Ángel.¹¹¹

69. On June 24, 2003, José Pacheco León filed a writ with the Chair of the Human Rights Defense Committee in Honduras (Comité para la Defensa de los Derechos Humanos en Honduras—CODEH).¹¹² He indicated that persons unknown have been following his daughters at the university.¹¹³ He also contended that, because of all the threats he has received, he requested the adoption of protection measures for him and his family.¹¹⁴

¹⁰² Communication from the petitioners of July 24, 2007.

¹⁰³ Communication from the petitioners of July 24, 2007.

¹⁰⁴ Complaint filed by Nancy Pacheco. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹⁰⁵ Communication from the petitioners of July 24, 2007.

¹⁰⁶ Communication from the petitioners of July 24, 2007.

¹⁰⁷ Communication from the petitioners of July 24, 2007.

¹⁰⁸ Communication from the petitioners of July 24, 2007.

¹⁰⁹ Communication from the petitioners of June 24, 2012.

¹¹⁰ Complaint filed by José Pacheco. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Document submitted by José Pacheco on June 24, 2003. Pages 162-166 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹¹¹ Communication from the petitioners of June 24, 2012.

¹¹² Document submitted by José Pacheco on June 24, 2003. Pages 162-166 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹¹³ Document submitted by José Pacheco on June 24, 2003. Pages 162-166 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹¹⁴ Document submitted by José Pacheco on June 24, 2003. Pages 162-166 of the court case file. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

70. Likewise, the petitioners contended that, on December 30, 2005, several persons broke into Mr. Pacheco's house and took confidential documentation.¹¹⁵ They stated that, on December 11, 2003, four armed men kidnapped the engineer in charge of building a new house for Mr. José Pacheco.¹¹⁶ They claimed that the workers who were on the construction site heard the armed men say "no, this is not him" when the engineer was kidnapped.¹¹⁷

71. The petitioners also reported that, on May 28, 2012, José Pacheco and his son José Daniel Pacheco were the victims of kidnapping and theft of their car.¹¹⁸

72. They alleged that all of these incidents were reported by José Pacheco León on the basis of seven complaints.¹¹⁹ Although the Commission does not have the dates for all the complaints filed, it takes note of the numbers of the investigations of the complaints.¹²⁰ According to the petitioners, these complaints did not lead to any kind of protection for Mr. Pacheco and his next of kin.¹²¹

73. The Commission notes that the State did not challenge that said complaints had been filed nor did they provide any information about protection given or about the status of the investigations.

B. Law

74. Bearing in mind the nature of the case and the inter-relationship between the actions of the State on the basis of domestic proceedings and the review to assign responsibility to the State, the Commission shall conduct a review of the law, first all, regarding the investigation and domestic proceedings in the light of the American Convention. Second, the Commission shall determine if the State of Honduras is responsible for the death of Mr. Pacheco León.

1. Right to a fair trial and judicial protection (Articles 8.1 and 25.1 of the American Convention)

75. Article 8.1 of the American Convention establishes the following:

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

76. As for Article 25.1 of the Convention, it establishes the following:

Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

¹¹⁵ Communication from the petitioners of June 24, 2012.

¹¹⁶ Communication from the petitioners of June 24, 2012.

¹¹⁷ Communication from the petitioners of June 24, 2012.

¹¹⁸ Communication from the petitioners of June 24, 2012.

¹¹⁹ Communication from the petitioners of June 24, 2012. Complaint filed by José Pacheco. Annex to the communication from the petitioners received by the IACHR on August 27, 2004. Complaint filed by Nancy Pacheco. Annex to the communication from the petitioners received by the IACHR on August 27, 2004.

¹²⁰ Complaints No. 4901 of September 27, 2002; No. 314-03; No. 3505; No. 3287; No. 3370; No. 11591 of December 31, 2005; and No. 3452. In: communication from the petitioners of March 13, 2013.

¹²¹ Communication from the petitioners of June 24, 2012.

77. According to the Court, the right to a fair trial implies that everyone who has suffered from a violation of his/her human rights “has the right to obtain from State bodies having jurisdiction clarification of incidents of rights violation and the establishment of the corresponding responsibilities, on the basis of an investigation and trial.”¹²² Regarding the right to judicial protection, the Court has established that:

(...) it requires the State to guarantee to everyone access to the administration of justice and, in particular, to a rapid and simple remedy to achieve, among other results, that those responsible for the human rights violations be judged and obtain reparations for the damage suffered (...). [A]rticle 25 constitutes one of the basic pillars, not only of the American Convention but also of the State’s rule of law in a democratic society (...)¹²³.

78. Thus it shows that the State has the obligation that “every state action comprising the investigative process in its entirety, must be aimed at a specific goal, determining the truth and investigating, prosecuting, arresting, trying, and if appropriate, punishing those responsible for the offenses.”¹²⁴

79. This duty to investigate is an obligation of means and not results, which must be fulfilled by the State as its legal obligation and not simply as a mere formality destined beforehand to be futile.¹²⁵ Because of this, the presence of acts obstructing justice, impediments or failure to collaborate by the authorities who have hindered or are hindering the clarification of the case, constitutes a violation of the right to a fair trial.¹²⁶

80. Likewise, the IACHR recalls that the obligation to investigate and punish all incidents involving the violation of rights protected by the Convention requires that punishment be meted out not only to the perpetrators of the incidents violating human rights, but also to the instigators of said offenses and to those covering up these offenses.¹²⁷ This is based on the right of the victim’s next of kin to know the truth, which implies requiring the State bodies having jurisdiction to clarify the facts behind the rights violations, as well as to punish all those persons responsible,¹²⁸ involving all state institutions.¹²⁹

¹²² I/A Court H.R., *Case of Barrios Altos v. Peru*. Merits. Judgment of March 14, 2001. Series C No. 75, para. 48.

¹²³ I/A Court H.R., *Case of Loayza Tamayo v. Peru*. Reparations and Costs. Judgment of November 27, 1998. Series C No. 42, para. 169; *Case of Fairén Garbi and Solís Corrales v. Honduras*. Preliminary Objections. Judgment of June 26, 1987. Series C No. 2, para. 90.

¹²⁴ IACHR, Report No. 85/13, Case 12.251, Admissibility and Merits. Vereda la Esperanza, Colombia, November 4, 2013, para. 242. I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 101.

¹²⁵ I/A Court H.R., *Case of Velásquez-Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, para. 177; and *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167, para. 131.

¹²⁶ IACHR, Report No. 53/13, Case 12.777, Merits, Claudina Velásquez-Paiz et al., Guatemala, November 4, 2013, para. 122.

¹²⁷ IACHR, *Report on the Situation of Human Rights Defenders in the Americas* OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, para. 109. I/A Court H.R., *Case of Gómez-Paquiyaqui Brothers v. Peru*. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, para. 146; *Case of Myrna Mack Chang v. Guatemala*. Merits, Reparations and Costs. Judgment of November 25, 2003. Series C No. 101, para. 275; *Case of Juan Humberto Sánchez v. Honduras*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 7, 2003. Series C No. 99, para. 186; and *Case of the Constitutional Court v. Peru*. Competency. Judgment of September 24, 1999. Series C No. 55, para. 123.

¹²⁸ I/A Court H.R., *Case of Gómez Palomino v. Peru*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C No. 136, para. 78; *Case of Almonacid Arellano et al. v. Chile*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 26, 2006. Series C No. 154, para. 150; and *Case of the Rochela Massacre v. Colombia*. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 163, para. 147.

¹²⁹ I/A Court H.R., *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167, para. 130; *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 120; and *Case of Huilca-Tecse v. Peru*. Judgment of March 3, 2005. Series C No. 121, para. 66.

1.1. Due diligence in the investigation and clarification of the facts

81. The Court has ruled that every time the State conducts an investigation because of the alleged perpetration of an offense, it must aim at achieving a specific goal, which is to find out the truth by prosecuting, trying, and, where appropriate, punishing those responsible for the offenses.¹³⁰ To ensure this, the investigation must be conducted by all legal means available¹³¹ and must be conducted with due diligence, effectively, seriously, and impartially.¹³²

1.1.1. Initial actions

82. The IACHR recalls that, at the very start, States are required to act with thoroughness.¹³³ This is because the first steps of an investigation are essential elements “for the proper course of the judiciary investigation, especially when dealing with an incident that has cost the life of a person.”¹³⁴ As the Court has ruled, the lack of due diligence in the early stages of an investigation may lead to the loss of key evidence, because with the passage of time the possibilities of clarifying the facts and determining responsibilities gradually diminish.¹³⁵

83. Indeed, the duty to ensure diligence includes the acts of investigation prior to court proceedings, because it is not possible to conduct an efficient and effective court trial if the investigative stage has not met the required characteristics mentioned in the preceding paragraph.¹³⁶ The Court has pointed out that “all of these requirements, as well as criteria of independence and impartiality, extend as well to non-judiciary bodies in charge of conducting the investigation prior to court proceedings.”¹³⁷

84. By virtue of the above, the Commission shall examine, at this point, if the State of Honduras conducted the investigations with due diligence in order to identify those responsible for the events on the basis of gathering the evidence needed to draw up lines of inquiry consistent with said evidence.

85. As has been the practice of both the Commission¹³⁸ and the Court¹³⁹, when dealing with a violent death, the “United Nations Manual on the Effective Prevention and Investigation of Extra-Legal,

¹³⁰ I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 101.

¹³¹ I/A Court H.R., *Case of García-Prieto et al. v. El Salvador*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168, para. 101.

¹³² I/A Court H.R., *Case of Gómez-Paquiyaqui Brothers v. Peru*. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, para. 146; and I/A Court H.R., *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167. para. 130.

¹³³ I/A Court H.R., *Case of Zambrano-Vélez et al. v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, para. 121.

¹³⁴ I/A Court H.R., *Case of Myrna Mack-Chang v. Guatemala*. Merits, Reparations and Costs. Judgment of November 25, 2003. Series C No. 101, para. 167. IACHR, Report No. 37/00, Case 11.481, Merits, Monsignor Oscar Arnulfo Romero y Galdámez, El Salvador, April 13, 2000, para. 85.

¹³⁵ I/A Court H.R., *Case of Anzualdo Castro v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 135; and *Case of Heliodoro Portugal v. Panama*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008. Series C No. 186, para. 150.

¹³⁶ See: IACHR, Report No. 10/95, Case 10.580, Admissibility and Merits, Manuel Stalin Bolaños, Ecuador, September 12, 1995.

¹³⁷ I/A Court H.R., *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167. para. 133.

¹³⁸ See: IACHR. Report No. 48/97, Case 11.411, Merits, Severiano y Hermelindo Santiz Gómez “Ejido Morelia”, Mexico, February 18, 1998; Report No. 34/00, Case 11.291, Merits, Carandirú, Brazil, April 13, 2000; Report No. 1/98, Case 11.543, Merits, Rolando Hernández-Hernández, Mexico, May 5, 1998; Report No. 10/95, Case 10.580, Admissibility and Merits, Manuel Stalin Bolaños, Ecuador, September 12, 1995.

¹³⁹ I/A Court H.R., *Case of González et al. (“Cotton Field”) v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 301; and *Case of the Miguel Castro-Castro Prison v. Peru*. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C No. 160, para. 383.

Arbitrary and Summary Executions"¹⁴⁰ is a useful tool to assess the steps taken by investigative authorities, especially in the first stages. This is the case because the above-mentioned instrument recapitulates the minimum, that is, the most basic steps that must be taken "to discover the truth about the events leading to the suspicious death of a victim."¹⁴¹ Thus, said Manual establishes that the state authorities that carry out an investigation must, *inter alia*:

a) identify the victim; b) recover and preserve the evidentiary material related to the death; c) identify possible witnesses and obtain their statements with regard to the death that is being investigated; d) determine the cause, form, place, and time of death, as well as any procedure or practice that could have caused it, and e) distinguish between a natural death, an accidental death, suicide, and homicide. Besides, it is necessary to thoroughly investigate the crime scene, autopsies and competent professionals employing the most appropriate procedures must carefully practice analysis of the human remains.¹⁴²

86. Likewise, the Commission observes that, as established by said document, due diligence in a forensic investigation of a death requires upholding the chain of custody of all the elements of forensic evidence.¹⁴³ In that respect, the Inter-American Court has stated that:

This consists in keeping a precise written record, complemented, as applicable, by photographs and other graphic elements, to document the history of the item of evidence as it passes through the hands of the different investigators responsible for the case.¹⁴⁴

87. First of all, the IACHR observes that, in the case file, there is no indication that the crime scene was protected as of the time of the incidents or that measures had been ordered to protect said evidence. Apart from the mention of some evidence gathered, there are no documentary or photographic records of the death of Mr. Pacheco León. Furthermore, the IACHR notes that a DGIC technical expert stated that, when he arrived at the crime scene several hours after Mr. Pacheco's death, "the crime scene had been tampered with and that he saw shoe prints in blood stains." Thus, the Commission noted that, from the very start, one of the minimum components cited above had been omitted, that is, a thorough examination of the crime scene.

88. Second, the Commission noted that, in the case file, Mr. Pacheco León's autopsy could not be found. The IACHR observes that the court itself assigned to the case requested the results of the autopsy and, in July 2004, the Prosecutor of the Attorney General's Office of the Department of Valle reported that "the conclusions from the autopsy (...) of Mr. Ángel León Pacheco could not be found in the court case file."

89. Third, the IACHR observes that, according to statements made in December 2001 by an employee of the Ministry of Security and a medical examiner of the Judiciary, after the death of Ángel Pacheco, the chain of Mr. Pacheco's blood samples was not tracked nor were adequate steps taken to pack the evidence obtained. Furthermore, the Commission stresses that the State itself recognized that the blood samples obtained after the death of Mr. Pacheco had been destroyed "by accident."

¹⁴⁰ United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the United Nations General Assembly in 1991. U.N. Document ST/CSDHA/12.

¹⁴¹ United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the United Nations General Assembly in 1991. U.N. Document ST/CSDHA/12, para. 9.

¹⁴² I/A Court H.R., *Case of Servellón-García et al. v. Honduras*. Judgment of September 21, 2006. Series C No. 152, para. 120.

¹⁴³ United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and I/A Court H.R., *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 305.

¹⁴⁴ I/A Court H.R., *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 305.

90. Finally, the Commission observes that, during the first months and even years after Mr. Pacheco's death, the investigation focuses exclusively on Messrs. Maldonado, Estrada, and Vigil. The IACHR has not identified in the case file any clues that would explain why these persons were connected to the investigation. On the contrary, Mr. Pacheco's son, Yimmy Pacheco, pointed out at a police lineup, days after the crime took place, that he did not recognize any of these three persons as being the one who shot his father. Likewise, Yimmy Pacheco stated that the car that was confiscated from Messrs. Estrada and Vigil was not the same as the one he saw on the day of his father's death.

91. On the basis of these elements, the IACHR considers that, after Mr. Pacheco León's homicide, the political, prosecution and judicial authorities did not adopt the initial minimum measures required in accordance with the standards determined by the Commission and the Court in a wide range of similar cases, in the light of the "Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions." In that respect, from the start, the investigation suffered from severe constraints, which, as will be explained in the following paragraphs, have exerted a direct impact on the situation of total impunity prevailing over the events of the case.

1.1.2. Subsequent actions

92. On the basis of an evaluation of subsequent actions, the Commission has identified various flaws, irregularities, and omissions throughout the investigation, which are examined below.

a. Absence of logical and timely lines of inquiry into the possible direct participation of state agents

93. In its case law on the subject of impunity, the Court has highlighted the importance of establishing logical lines of inquiry on the basis of the proof and evidence gathered during the process.¹⁴⁵

94. The Commission stresses that, from the first statements made in the framework of the judiciary proceedings, various declarants, including Mr. Pacheco's next of kin and persons who worked with him on his political campaign, mentioned the names of persons who had threatened and intimidated him before his death, including certain state agents. Likewise, judicial authorities obtained information about the fact that a police officer might have been the perpetrator of Ángel Pacheco's death.

95. Regarding this, the IACHR observes that the State had much evidence indicating that Mr. Pacheco was threatened by the mayor of Amapala at that time, Juan José Quiroz, by the former congressperson Manuel Vides, and by the former alternate congressperson Raúl Pino. The Commission notes that these persons were considered as the possible perpetrators of Ángel Pacheco's killing on the basis of various DGIC reports. Because of the contents and context of the threats that were described, state authorities should have been required to draw up and exhaustively examine a sound investigative hypothesis about the political candidacy of Mr. Ángel Pacheco León and the interests that his candidacy could have undermined. Likewise, on the basis of proven facts, it appears that the perpetrator of the crime could have been a police officer assigned to the Headquarters of Casamata, by the name of Santos Mendoza, who had "done jobs" for Jorge Berrios, former congressperson and also the alleged instigator of Mr. Pacheco's death.

96. As for Messrs. Quiroz, Vides, and Pino, the IACHR notes that, although they were reported as the instigators and were even identified as such in accordance with various DGIC reports, the State did not adopt the minimum investigative steps to follow up on this fundamental information concerning the possible motive for the killing and to determine their possible responsibility for Ángel Pacheco's death.

97. Regarding this, in cases of the arbitrary privation of the right to life the Court has stated that:

¹⁴⁵ I/A Court H.R., Case of González Medina and family v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 27, 2012. Series C No. 240, para. 115.

in order to comply with the duty to investigate cases such as this, it is not sufficient to have knowledge of the crime scene and material circumstances of the crime; rather it is essential to analyze the information concerning the power structures that permitted, planned and executed it, both intellectually and directly, and concerning the individuals or groups that were interested in or would benefit from the crime (beneficiaries). This, in turn, would lead to theories and lines of inquiry and to an examination of the crime scene, witnesses and other probative elements. Hence, in cases such as this, it is not a question of examining the crime in isolation, but rather of inserting it in a context that will provide the necessary elements to understand its operational structure.¹⁴⁶

98. The Commission observes that the DGIC investigators themselves recognized that, sometimes, they wanted to monitor the possible instigators; nevertheless, they were unable to do so in official motor vehicles because these cars were "already identified." Likewise, on another occasion, DGIC investigators requested that steps be taken to provide protection to a witness so that he/she could make a statement in the courts and thus contribute to moving the investigation forward. The IACHR notes that, in the case file, there is no mention of any measures adopted to overcome the above-mentioned obstacles.

99. As for police officer Santos Mendoza, the IACHR observes that he was identified by the acting coordinator of DGIC as the alleged instigator less than one week after Mr. Pacheco's death. Nevertheless, the Commission notes that the case file does not indicate any step taken to identify his criminal responsibility, not even requesting a deposition from him or making inquiries at the headquarters where he worked, among others. There is only a 2010 report from a prosecutor indicating that "the only hypothesis that is being worked on is that the perpetrator of the crime was a preventive police officer."

100. Because of what is indicated in this section, the Commission considers that, during the development of the investigation, the State has neglected to gather evidence and seriously and exhaustively promote basic lines of inquiry that would effectively respond to the clues that involved at least four state authorities and that had emerged from the very start.

b. Absence of diligence and obstacles in the investigations

101. In the present case, the IACHR observes that, in addition to the state agents mentioned earlier who might have been involved in Ángel Pacheco's death, at least three other persons had also been identified as the alleged instigators of the crime. These three persons, according to the next of kin of Ángel Pacheco, had sent him death threats before he was killed. Likewise, the IACHR notes that these three persons had held public office, such as the former congresspersons Benjamín Cárdenas and Jorge Berrios, and the former member of Armed Forces Salvador Cárdenas.

102. The Commission observes that their involvement in Mr. Pacheco's killing was identified in various DGIC reports. The case file also shows a DGIC report indicating that a gun confiscated from Benjamín Cárdenas matched the type of gun used to kill Ángel Pacheco.

103. Despite all of these clues, the Commission considers that the State did not adopt the minimum steps needed to adequately investigate the alleged responsibility of these persons.

104. Thus, for example, the IACHR observes that, despite many statements involving the above-mentioned persons, including state agents, as the alleged instigators, as well as the police officer as the alleged perpetrator, no steps were taken to judicially establish their responsibilities. On the contrary, it appears that, during the first year and half after the crime, the investigations focused on Messrs. Maldonado, Estrada, and Vigil. The Commission reiterates that, in the court case file, there are no clues that would make it possible to understand this focus of the investigation. Furthermore, the IACHR stresses that, in the decision

¹⁴⁶ I/A Court H.R., Case of Uzcátegui et al. v. Venezuela. Merits and Reparations. Judgment of September 3, 2012. Series C No. 249, para. 222.

to dismiss the case against these persons, it was indicated that "there are no reasonable clues about who might be the perpetrators of the crime." In that respect, follow-up on this hypothesis, for which there are no clues that would substantiate it in the court case file, diverted attention from all the consistent clues about the killing of Mr. Pacheco León for reasons involving his candidacy to the National Congress and respective alleged instigators and perpetrators of the crime.

105. Furthermore, the Court has pointed out that "the judges, based on the principle of effective judicial protection, should have acted with due diligence, ensuring prompt trial proceedings."¹⁴⁷ Regarding this, as detailed afterwards, the IACHR observes that there was unjustified delay by the judicial authorities in carrying out diverse actions, as well as periods of time without any follow-up or the ordering of other steps.

106. Likewise, in the cases *Kawas-Fernández v. Honduras* and *López-Luna v. Honduras*, the Court established that threats to witnesses who are part of court proceedings may have an intimidating and discouraging effect on those in charge of the investigation and on those who might be witnesses, seriously undermining the effectiveness of the investigation.¹⁴⁸ That is why States have the obligation to "provide all necessary measures to protect the (...) investigators, witnesses and families of the victims from harassment and threats aimed at obstructing the proceeding and preventing elucidation of the facts, as well as covering up those responsible."¹⁴⁹

107. Regarding this, the Commission observes that the security of certain persons who have participated in the proceedings has been affected. According to proven facts, according to a 2001 DGIC report, there were witnesses "that feared having their statements taken in writing for fear of losing their life." In addition, as indicated above, the next of kin also indicated that they reported having received threats. Nevertheless, as indicated earlier, in the case file there is no information that would indicate that the State had implemented any protection measures for their benefit or that they had investigated the origin of the threats and harassment.

108. The Commission therefore observes that, during the investigation, information emerged about possible incidents of retaliation and pressure on persons who participated in the investigations, although there is no information about any investigation of these incidents.

109. In short, the Commission considers that the State failed to fulfill its duty to clarify what happened to Mr. Ángel Pacheco by looking for the truth and identifying and eventually punishing all those persons responsible, including the instigators and perpetrators of the crime.

1.2. Reasonable time

110. As one of the elements of due process of law, Article 8.1 of the American Convention establishes that courts must rule on the cases submitted to them for hearing within a reasonable time. In that respect, a prolonged delay may, in itself, eventually constitute a violation of the right to fair trial,¹⁵⁰ and therefore the State must indicate and prove why more than a reasonable amount of time has been required to issue a final judgment in a particular case.¹⁵¹

¹⁴⁷ I/A Court H.R., *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 170; and *Case of Myrna Mack-Chang v. Guatemala*. Merits, Reparations and Costs. Judgment of November 25, 2003. Series C No. 101, para. 210.

¹⁴⁸ I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 106; *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 173.

¹⁴⁹ I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 107; *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 173.

¹⁵⁰ I/A Court H.R., *Case of García-Asto and Ramírez-Rojas v. Peru*. Judgment of November 25, 2005. Series C No. 137, para. 166; *Case of Gómez-Palomino v. Peru*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C No. 136, para. 85; and I/A Court H.R., *Case of the Moiwana Community v. Suriname*. Judgment of June 15, 2005. Series C No. 124, para. 160.

¹⁵¹ I/A Court H.R., *Case of Ricardo Canese v. Paraguay*. Judgment of August 31, 2004. Series C No. 111, para. 142.

111. In that respect, a reasonable time must be understood in regard to the total duration of the criminal proceedings.¹⁵² According to the terms of Article 8.1 of the American Convention, the Commission shall take into consideration, in the light of the concrete circumstances of the case, those elements that bodies of the Inter-American System have taken into account, namely: i) the complexity of the case; ii) the procedural activity of the interested party; and iii) the conduct of judicial authorities; and iv) the impact arising from the legal situation of the person involved in the proceedings.¹⁵³

112. Regarding the complexity, the Stated alleged that the delay in the proceedings was because of this factor as the investigations involved a large number of persons. Nevertheless, the Commission observes that the State of Honduras did not allege how these features of the investigation had directly led to the delay in the proceedings.

113. The Commission considers that, as pointed out by the Court, the delay in carrying out the investigation cannot be justified by the complexity of the case when: i) possible perpetrators of the crime have been individually identified; ii) there are witnesses; and iii) there are possible lines of inquiry.¹⁵⁴ In any case, for an argument of complexity to be admissible, it is not enough for the States to invoke the complexity of a case in general terms. It is necessary to present specific information that would establish, in each case, the ties between the complexity and the delay. In the present case, the Commission has already highlighted the absence of follow-up on the clues regarding the instigators and perpetrators of the crime, as well as the many flaws and omissions that underscore that the delay was not because of the case's complexity.

114. As for the participation of the interested parties, the Commission observes that, although it is the State's duty to promote *ex officio* the investigations, the next of kin and witnesses have contributed actively by providing statements in the process. The IACHR observes that the case file includes the various statements made by Mr. Pacheco's next of kin, referring to those persons who had threatened him before he was killed. The Commission also notes that the legal representatives followed up on and promoted the investigation, repeatedly complaining about the delay in the processing of the steps taken, as well as the long periods of time where the proceedings were at a standstill.

115. As for the conduct of the judicial authorities, the Commission refers to the delays, flaws, irregularities, and obstructions already described above. In addition, the IACHR notes that, in July 2004, the Prosecutor of the Attorney General's Office of the Department of Valle indicated that the last action taken by prosecution was an identity card notification request in February 2002. That is why, in July 2004, Marleny, Regina, and José Pacheco requested the intervention of the Human Rights Prosecution Office, because of the failure to adopt steps to identify the persons responsible. This request did not have any impact on remedying the delay that had already taken place. On the contrary, the Commission deems of the utmost gravity the fact that, between 2005 and 2010, no major actions were taken. Furthermore, IACHR notes that, after 2005, the DNIC dismantled the team investigating Mr. Pacheco's case. The Commission has no information about the investigations between 2010 and the present, although it was requested by the Commission at the public hearing held for the present case.

116. In short, the Commission considers that more than 13 years of delays incurred by the domestic judiciary go beyond the time that can be deemed reasonable. As a result, the delay in domestic

¹⁵² I/A Court H.R., *Case of López-Álvarez v. Honduras*. Judgment of February 1, 2006. Series C No. 141, para. 129; *Case of Acosta-Calderón v. Ecuador*. Judgment of June 24, 2005. Series C No. 129, para. 104; and *Case of Tibi v. Ecuador*. Judgment of September 7, 2004. Series C No. 114, para. 168. See also: IACHR, Report No. 77/02, Case 11.506, Merits, Waldemar Gerónimo Pinheiro and José Víctor dos Santos, Paraguay, December 27, 2002, para. 76.

¹⁵³ IACHR, Report No. 111/10, Case 12.539, Merits, Sebastián Claus Furlan and Family, Argentina, October 21, 2010, para. 100. I/A Court H.R., *Case of the Santo Domingo Massacre v. Colombia*. Preliminary Objections, Merits, and Reparations. Judgment of November 30, 2012. Series C No. 259, para. 164.

¹⁵⁴ I/A Court H.R., *Case of Barrios Family v. Venezuela*. Merits, Reparations and Costs. Judgment of November 24, 2011. Series C No. 237, para. 275.

proceedings constitutes an additional factor of impunity and denial of justice to the detriment of the next of kin of the victims.

1.3. Conclusion

117. The Commission concludes that the domestic investigations and proceedings have not provided effective remedies to guarantee the access to justice, to find out the truth about the events, to investigate and punish all those responsible, and to provide reparations for the consequences of the violations. As a result, the IACHR stresses that these elements have, to date, more than 13 years after the crime, contributed to the continued failure to clarify Ángel Pacheco's killing and, as a result, have upheld the situation of impunity for the instigators and perpetrators of the crime.

118. Therefore, the IACHR considers that the State violated the rights to a fair trial and to judicial protection as set forth in Articles 8.1 and 25.1 of the American Convention, in connection with the obligations established in Article 11 of the same instrument, to the detriment of the next of kin of Ángel Pacheco León: i) his mother Andrea Pacheco; ii) his spouse Blanca Rosa Herrera; iii) his brothers and sisters Otilia, Concepción, José, Blanca, María, Francisco, Norma, Marleny, Jamileth, Jaqueline, and Jorge, who all bear the Pacheco surname; iv) his sons and daughters Jimmy Pacheco, Miguel Ángel Pacheco; Cinthia Pacheco Devicente, Miguel Pacheco Devicente, Tania Pacheco López, Juan Pacheco Euceda, and Bianca Pacheco Herrera.

2. Right to life (Article 4 of the American Convention)

2.1. Prior consideration

119. The petitioners alleged, after the admissibility report was issued, that the State was responsible for violating the right to life as established in Article 4 of the American Convention in connection with Article 1.1 of the same instrument, to the detriment of Ángel Pacheco León. They alleged that, because the investigations into the killing of Mr. Pacheco turned out to be unfruitful because no person was punished, the State failed in its duty to guarantee his right to life. They contended that the State has tolerated the situation of impunity for the crime by not conducting a serious impartial investigation.

120. As for the State, it indicated that it would not rule on the possible violation of this right because it was not included by the IACHR in its admissibility report and was recently alleged by the petitioners in the merits stage. It contended that, without detriment to the above, the State had not violated this right because the threats made against Mr. Pacheco were not reported to the judicial authorities, which prevented the adoption of protection measures that would have guaranteed his life.

121. The Commission notes that in its admissibility report it did not rule on the alleged violation of Article 4 of the American Convention. The IACHR also observes that this right was alleged by the petitioners after the admissibility report had been issued, that is, at the merits stage. Regarding this, the Commission stresses that the facts supporting this allegation are an integral and inseparable part of the case and, in addition, emerge from the information and documents provided by the parties in the course of the proceedings of the present case.

122. By virtue of the above, the Commission deems that, regardless of the fact that the petitioners submitted this allegation after the ruling on the case's admissibility, on the basis of a review of the case file with the IACHR, facts have emerged that support a review of Article 4 of the American Convention. The IACHR also notes that, during the proceedings, the State were apprised of facts on the basis of which said allegation was made.¹⁵⁵ On the basis of the preceding arguments, the Commission shall take this particular element into consideration.

¹⁵⁵ It must be mentioned here that the Inter-American Court has established that the inclusion of the articles of the American Convention by the IACHR in the stage of the merits "does not entail any violation of the [State's] right to defend itself" in cases where the State has heard the facts that substantiate the alleged violation. See: I/A Court H.R., *Case of Furlan and Family v. Argentina*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 31, 2012. Series C No. 246, para. 50.

123. Article 4.1 of the American Convention establishes that:

[e]very person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

124. As for the contents of the right to life, the Inter-American Court has established that:

[...] the right to life plays a fundamental role in the American Convention for being the essential prerequisite for the realization of the other rights.¹⁵⁶ When the right to life is not respected, none of the rights make any sense. The States have both the obligation to guarantee the creation of the necessary conditions to ensure that violations of this inalienable right do not occur, as well as the duty to prevent the infringement of the said right by its officials.¹⁵⁷ Observance of Article 4, in connection with Article 1.1 of the American Convention does not only presuppose that no person may be arbitrarily deprived of his life (negative duty) but also requires, pursuant to the obligation to guarantee the full and free exercise of human rights, that the States adopt any and all necessary measures to protect and preserve the right to life (positive duty) of the individuals under their jurisdiction.¹⁵⁸

125. The Commission has proven that Angel Pacheco León was killed on November 23, 2001 after being gunned down by one person. Likewise, the IACHR observes that there is no dispute between the parties regarding how a life was taken as a result of the attack, but that rather the dispute focuses on whether or not these incidents can be attributed to the State.

126. In that respect, in a case such as the present one, the examination of attribution of responsibility to the State must take into account the evidence appearing in the case file, the information about the context available, and to the extent that is relevant, the investigations conducted domestically. Because of this, in accordance with the allegations made by the petitioners, the Commission shall determine first of all if the State of Honduras failed to fulfill its obligations to prevent the death of Mr. León Pacheco. Second, the Commission shall examine whether the elements that emerged from the investigation are the State's responsibility.

2.2. The duty to prevent

127. The Court has repeated that the duty to prevent encompasses "all those measures of a legal, political, administrative and cultural nature that promote the safeguard of human rights and that ensure that possible violations of these rights are effectively considered and dealt with as an illegal fact, and as such are capable of entailing sanctions for those who commit them, as well as the obligation to compensate the victims for their harmful consequences."¹⁵⁹

¹⁵⁶ I/A Court H.R., *Case of the Miguel Castro-Castro Prison v. Peru*. Judgment of November 25, 2006. Series C No. 160, para. 237; I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 120; I/A Court H.R., *Case of Huilca-Tecse v. Peru*. Judgment of March 3, 2005. Series C No. 121, para. 65.

¹⁵⁷ I/A Court H.R., *Case of Zambrano-Vélez et al. v. Ecuador*. Judgment of July 4, 2007. Series C No. 166, para. 79; *Case of Montero-Aranguren et al. (Detention Center of Catia) v. Venezuela*. Judgment of July 5, 2006. Series C No. 150, para. 64; *Case of Ximenes Lopes v. Brazil*. Judgment of July 4, 2006. Series C No. 149, para. 125; *Case of Baldeón-García v. Peru*. Judgment of April 6, 2006. Series C No. 147, para. 83.

¹⁵⁸ I/A Court H.R., *Case of Vargas-Areco v. Paraguay*. Judgment of September 26, 2006. Series C No. 155, para. 75; I/A Court H.R., *Case of the Ituango Massacres v. Colombia*. Judgment of July 1, 2006. Series C No. 148, para. 130; I/A Court H.R., *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Judgment of March 29, 2006. Series C No. 146, para. 152.

¹⁵⁹ I/A Court H.R., *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 118; *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 252.

128. The Court has also asserted that the responsibility of the States to act with due diligence to address human rights violations is extended to the actions of non-state stakeholders, third parties or individuals.¹⁶⁰ Without detriment to the above, the Court has established that a State cannot be held responsible for "every human rights violation committed between private individuals within its jurisdiction."¹⁶¹ That is how it highlighted the criteria that must be taken into consideration in order to assess fulfillment of the obligation to prevent and protect as a way to guarantee a right:

a State's obligation of guarantee under the Convention does not imply its unlimited responsibility for any act or deed of private individuals, because its obligation to adopt measures of prevention and protection for private individuals in their relations with each other is conditional on its awareness of a situation of real and imminent danger for a specific individual or group of individuals and the reasonable possibility of preventing or avoiding that danger. In other words, even though the juridical consequence of an act or omission of a private individual is the violation of certain human rights of another private individual, this cannot be attributed automatically to the State, because the specific circumstances of the case and the discharge of such obligation to guarantee must be taken into account.¹⁶²

129. This reasoning is shared by both the IACHR¹⁶³ and the European Court of Human Rights.¹⁶⁴

130. In the present case, the petitioners alleged that Mr. Pacheco was the victim of death threats from various persons, including state agents. As for the State, it alleged that Mr. Pacheco did not request any protection measures for his safety nor did he report the threats against him.

131. The Commission observes that evidence appearing in the case file does not include reports filed with the authorities about threats received, a situation of risk or Mr. Pacheco León's need to benefit from protection measures. Thus, the Commission considers that, in the present case, the existence of a risk that the State knew about or should have known about with respect to Ángel Pacheco cannot be asserted. By virtue of the above, the Commission considers that it does not have enough elements to attribute responsibility to the State for failure to fulfill its duty to prevent.

2.3. Clues of the direct and indirect participation of state agents in the killing

132. The Court establishes that, from the general obligation to guarantee that everyone under its jurisdiction will enjoy the human rights enshrined in the Convention, as established in Article 1.1 of the same instrument, along with the right to life pursuant to Article 4 of said treaty, arises the obligation to conduct an effective official investigation in cases of extra-legal, arbitrary or summary executions.¹⁶⁵ In addition, the Court pointed out that, in these cases the authorities of a State should start *ex officio* and immediately a serious, impartial and effective investigation, once they are apprised of the crime,¹⁶⁶ whether it was committed by state agents or by private individuals. Because of this, conducting an effective investigation is a

¹⁶⁰ I/A Court H.R., *Case of the "Mapiripán Massacre" v. Colombia*. Merits, Reparations and Costs. Judgment of September 15, 2005. Series C No. 134, para. 111.

¹⁶¹ I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 123.

¹⁶² I/A Court H.R., *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, para. 280; and *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 123.

¹⁶³ IACHR, Application filed by the IACHR with the Inter-American Court of Human Rights in the *Case of Luisiana Ríos et al.* against Venezuela, April 20, 2007, para. 226-228.

¹⁶⁴ ECHR, *Kiliç v. Turkey*. Judgment of March 28, 2000, para. 62; and *Osman v. United Kingdom*. Judgment of October 28, 1998, para. 115.

¹⁶⁵ I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 142.

¹⁶⁶ I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 143; *Case of the Moiwana Community v. Suriname*. Judgment of June 15, 2005. Series C No. 124, para. 145.

key and conditioning element to protect certain rights perceived as affected or breached by these situations, such as the right to life.¹⁶⁷

133. Likewise, the Inter-American Court has pointed out that the duty to investigate must be reinforced where there are clues that state agents have been involved.¹⁶⁸ About this matter, the European Court of Human Rights indicated that:

the obligation to protect the right to life [...] requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force. These investigations must be conducted [...] without considering if the perpetrators are agents of the State or third parties. Nevertheless, when the involvement of agents or bodies of the State is alleged, specific requirements can be applied on the effectiveness of the investigation. (...) The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility.¹⁶⁹

134. On the basis of the above, in the present case the duty to investigate must be fulfilled with special diligence and seriousness, because of the existence of clues of a direct participation or complicity or collaboration of state agents in Ángel Pacheco's death.

135. The Commission reiterates that, in view of clues of this nature, which would entail a direct attribution of the State's international responsibility, it would pertain to the authorities in charge of the investigation to make all necessary efforts to clarify the possible responsibilities or ties of state authorities in a violation of the right to life.¹⁷⁰ Thus, it behooves the State to conduct a meticulous, serious, and diligent investigation to find out the truth or disprove the clues indicating participation of state agents.

136. With respect to this duty, the Court has pointed out that, in cases of violent deaths, where there are clues of the participation of state agents, the State must adopt all necessary measures to determine the corresponding individual responsibilities.¹⁷¹ The Court found that, in those cases where this does not happen:

(...) it is reasonable to assess as evidence the indication contained in the case file that point to the involvement of state agents in these events, particularly those handled by the very state agencies that were in charge of the investigation which have not been disproven by the State. Reaching any other conclusion would entail allowing the State to resort to its own negligence or inefficacy for the criminal investigation to release itself from responsibility for the violation of Article 4(1) of the Convention.¹⁷²

137. Likewise, the Court has repeated that the failure to investigate alleged violations against a person where there are clues of participation by state agents, "prevents the State from presenting a satisfactory and convincing explanation of the [facts] alleged and from disproving allegations about its

¹⁶⁷ I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 145.

¹⁶⁸ I/A Court H.R., *Case of Castillo-González et al. v. Venezuela*. Merits. Judgment of November 27, 2012. Series C No. 256, para. 127.

¹⁶⁹ ECHR. *Khaindrava and Dzamashvili v. Georgia*, Judgment of September 8, 2010, para. 58; *McCann and Others v. the United Kingdom*. Judgment of September 27, 1995, paras. 49 and 161; and *Mastromatteo v. Italy*. Judgment of October 24, 2002, para. 89.

¹⁷⁰ IACHR, Report No. 120/10, Case 12.605, Merits, Joe Luis Castillo González, Venezuela, October 22, 2010, para. 109.

¹⁷¹ I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 97.

¹⁷² I/A Court H.R., *Case of Kawas-Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 97.

responsibility, using adequate elements of evidence.”¹⁷³]Thus the Court has taken this failure to provide an explanation as a factor to take into account to substantiate the alleged violation and the resulting international responsibility.¹⁷⁴

138. In the present case, the IACHR reiterates the clues of involvement by state agents: the mayor of Amapala, Juan José Quiroz; the congresspersons Manuel Vides and Raúl Pino; and the police officer Santos Mendoza. As indicated in the preceding section, these clues are present in a body of evidence that IACHR has available and which was gathered during the criminal proceedings themselves: i) statements made by Mr. Pacheco's next of kin and members of the National Party; and ii) official statements and reports from state agents of the DGIC. To this are added actions that led to covering up the information about the instigators and perpetrators of the crime, such as the failure to take statements from these persons, the absence of actions and monitoring to identify their criminal responsibility, the absence of protection for witnesses who were afraid to make statements, the procedural flaws, and even the dismantling of the special investigation group for the case.

139. The Commission considers that, in addition to all the clues about the state's involvement in Ángel Pacheco's death, it must be taken into account, as specified in the section on the rights to a fair trial and to judicial protection, that the State did not take the minimum actions required to explore logical lines of inquiry owing to omissions, obstructions, and irregularities that appeared throughout the proceedings. As a result, the judicial authorities did not examine seriously the possible ties of at least four state authorities to Ángel Pacheco León's homicide. In view of these omissions, the Commission considers that the State did not meet the requirement of disproving the clues about the direct participation, acquiescence or collaboration of state agents. In addition, the possible participation of state agents on active duty or former state agents could suggest the action of power structures in the area, which were not investigated either.

140. In that respect, the Commission considers that, in terms of international responsibility, the clues about participation of state agents, along with the absence of a diligent investigation, makes it possible to conclude that the State bears international responsibility for the failure to fulfill its duty to respect the life of Mr. Ángel Pacheco León, as enshrined in Article 4.1 of the American Convention, in connection with the obligations set forth in Article 1.1 of the same instrument.

3. Political rights

141. The Commission takes note that the petitioners alleged the violation of Ángel Pacheco's political rights in the stage of the merits. Regarding this, on the basis of the review previously conducted (see paragraphs 121 and 122 above), the IACHR shall set forth its considerations about this matter.

142. Article 23.1.b of the American Convention establishes the right of persons to "be elected in genuine periodic elections." The Court has considered that this right involves not only the right to be elected to public office, but also the right "to have a real opportunity to serve in the position to which he was elected."¹⁷⁵ Thus the right to effective political participation implies that citizens not only have right, but also

¹⁷³ I/A Court H.R., Case of J. v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C No. 275, para. 353.

¹⁷⁴ I/A Court H.R., Case of J. v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C No. 275, para. 354.

¹⁷⁵ I/A Court H.R., Case of Luna López v. Honduras. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 142.

the opportunity, to participate in the conduct of public affairs.¹⁷⁶ Thus, the State is responsible for adopting effective measures to guarantee the conditions needed for its full exercise.¹⁷⁷

143. As established in the evidence, Mr. Ángel Pacheco León won the primaries of the National Party in order to be elected congressperson to the National Congress of Honduras. The final elections were to be held on November 25, 2001, two days before he was killed.

144. The IACHR notes that, after winning the primaries, which occurred two weeks before his death, Mr. Pacheco was the victim of various pressures and death threats made by various persons so that he would withdraw his candidacy to the elections for the National Congress. The Commission notes that, according to the evidence, both persons involved with the National Party and those involved in the political party that competed against the former, demanded that Mr. Pacheco not participate in the elections. Therefore, the IACHR considers that there are clues that directly connect the origin of the threats received by Mr. Pacheco and his subsequent death with his position as a National Party candidate in the elections for the National Congress.

145. Furthermore, the Commission observes that, according to the evidence, there are enough elements, which have not been disproven by the State on the basis of a serious diligent investigation, that would make it possible to infer the participation in said events of at least four state agents, including one mayor, two congresspersons, and a police officer.

146. Because of the above, the Commission believes that body of evidence not investigated by the State makes it possible to conclude that said acts of harassment and threats received by Mr. Pacheco had their origin in his participation as a candidate in the congressional elections to the National Congress of Honduras. In view of this, the IACHR deems that, along the same line of analysis regarding the right to life, the absence of any follow-up on the lines of inquiry related to this motive, which also involved state agents, has an impact on the review of the State's responsibility with regard to political rights. In short, the State of Honduras bears international responsibility for violating Article 23 of the American Convention, in connection with Article 1.1 of the same instrument, to the detriment of Ángel Pacheco León.

4. Right to personal integrity (Article 5.1 of the American Convention)

147. The Commission takes note that the petitioners alleged the violation of the right to personal integrity of the Ángel Pacheco's next of kin in the stage of the merits. Regarding this, on the basis of the review conducted previously (see paragraphs 121 and 122 above), the IACHR shall set forth its considerations about this matter.

148. Article 5.1 of the American Convention establishes that “[e]very person has the right to have his physical, mental, and moral integrity respected.”¹⁷⁸ With respect to the next of kin of the victims of certain human rights violations, the Court has indicated that their mental and moral integrity can be affected as a consequence of specific situations that the victims suffered and the subsequent actions or omissions by domestic authorities in the face of these events.¹⁷⁹

¹⁷⁶ I/A Court H.R., *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, para. 142; *Case of Chitay Nech et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010, Series C No. 212, para. 107.

¹⁷⁷ I/A Court H.R., *Case of Yatama v. Nicaragua*. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 23, 2005. Series C No. 127, para. 201.

¹⁷⁸ I/A Court H.R., *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167. para. 112; and *Case of Vargas Areco v. Paraguay*. Judgment of September 26, 2006. Series C No. 155. para. 96.

¹⁷⁹ I/A Court H.R., *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of July 10, 2007. Series C No. 167. para. 112; and *Case of Vargas Areco v. Paraguay*. Judgment of September 26, 2006. Series C No. 155. para. 96.

149. Specifically, regarding the cases where there was a failure to conduct a complete and effective investigation, as in the present case, the Court has indicated that:

(...) the absence of a complete and effective investigation of the events constitutes a source of additional suffering and distress for the victims and their next of kin, who have the right to know the truth of what occurred. This right to the truth requires procedural determination of the most complete historical truth possible, which includes the judicial determination of the patterns of joint action and all the persons that in various ways participated in said violations and their corresponding responsibilities.¹⁸⁰

150. According to the above, the Commission considers that the loss of a loved one in a context as the one described in the present case, as well as the failure to conduct a complete and effective investigation, which in turn leads to suffering and distress for not knowing the truth, already constitutes, in itself, a violation of the mental and moral integrity of Mr. Pacheco León's next of kin.

151. Furthermore, the IACHR takes note of the various threats and events that would jeopardize the integrity of José Pacheco, the brother of Ángel Pacheco, and other members of his family. Although there is no detailed information about the contents and origin of these threats, the Commission observes that at least some of them can be considered to have been connected to the death of Ángel Pacheco León, taking into account that his brother José Pacheco León—who received various threats—subsequently held the public office of congressperson in the National Congress. The IACHR considers that this situation of insecurity, which has continued up to the present date according to what has been stated by José and Marleny Pacheco at the public hearing held in October 2014 with this body, has exerted an impact on the nuclear family.

152. The Commission takes note that these threats had been reported to judicial bodies. Nevertheless, the petitioners pointed out that, despite many requests filed with various public authorities, the State had not adopted any protection measures for the benefit of José Pacheco and his family. The IACHR observes that the State did not challenge these allegations.

153. By virtue of the above, the Commission considers that the loss of a loved one, the denial of justice, and the absence of effective protection to address the reports of threats have affected the personal integrity of the family of Mr. Pacheco León. As a consequence, the Commission concludes that the State violated the right to mental and moral integrity as enshrined in Article 5.1 of the American Convention in connection with the obligations established in Article 1.1 of the same instrument to the detriment of the next of kin of Ángel Pacheco: i) his mother Andrea Pacheco; ii) his spouse Blanca Rosa Herrera; iii) his brothers and sisters Otilia, Concepción, José, Blanca, María, Francisco, Norma, Marleny, Jamileth, Jaqueline, and Jorge, who all bear the Pacheco surname; iv) his sons and daughters Jimy Pacheco, Miguel Ángel Pacheco; Cinthia Pacheco Devicente, Miguel Pacheco Devicente, Tania Pacheco López, Juan Pacheco Euceda, and Bianca Pacheco Herrera.

V. CONCLUSIONS

154. On the basis of considerations of fact and law described above, the Inter-American Commission concludes that the State of Honduras is responsible for the violation of:

i) the rights to life and to political rights, as established in Articles 4 and 23 of the American Convention, in connection with Article 1.1 of the same international instrument, to the detriment of Ángel Pacheco León; and

¹⁸⁰ I/A Court H.R., *Case of Valle Jaramillo et al. v. Colombia*. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192, para. 102; *Case of the Rochela Massacre v. Colombia*. Merits, Reparations and Costs. Judgment of May 11, 2007, Series C No. 163, para. 195; *Case of Heliodoro Portugal v. Panama*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008. Series C No. 186, para. 146; and *Case of García Prieto et al. v. El Salvador*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168, para. 102.

ii) the rights to personal integrity, to a fair trial, and to judicial protection, as established in Articles 5, 8, and 25 of the American Convention, in connection with Article 1.1 of the same international instrument, to the detriment of the next of kin of Ángel Pacheco León, namely: i) his mother Andrea Pacheco; ii) his spouse Blanca Rosa Herrera; iii) his brothers and sisters Otilia, Concepción, José, Blanca, María, Francisco, Norma, Marleny, Jamileth, Jaqueline, and Jorge, who all bear the Pacheco surname; iv) his sons and daughters Jimy Pacheco, Miguel Ángel Pacheco; Cinthia Pacheco Devicente, Miguel Pacheco Devicente, Tania Pacheco López, Juan Pacheco Euceda, and Bianca Pacheco Herrera..

VI. RECOMMENDATIONS

155. By virtue of the conclusions above,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RECOMMENDS THE STATE OF HONDURAS

1. To provide adequate reparations for the violations of human rights of Mr. Ángel Pacheco León as stated in the present report, in both material and moral terms.

2. To develop and carry out an impartial, complete, and effective judicial investigation, in an expeditious manner, to establish the circumstances leading to the death of Mr. Ángel Pacheco León, to identify all the persons who participated as instigators or perpetrators in the various levels of decision making and execution, to clarify the power structures that participated in the perpetration of the violations that occurred and to apply the relevant sanctions. In the framework of this process, it pertains to the State to adopt all measures to protect witnesses and other stakeholders in the process, in case it is necessary.

3. To adopt the relevant administrative disciplinary or criminal measures to investigate and, if appropriate, to punish the deeds or omissions of state agents who contributed to the denial of justice and to the impunity in which the events of the case have remained.

4. Taking into account the information about the reports of threats to the detriment of José Pacheco León and his family, to adopt the measures needed to investigate the possible sources of risk and their connection to the present case.

5. To adopt the measures needed to avoid the repetition of the events of the present case, including providing the State's security agencies and the institutions in charge of investigations with the material resources needed to discharge their respective duties. Likewise to design and implement training materials and ongoing courses on human rights for police officers, prosecutors, and civil servants of the judiciary, specifically on the technical aspects of investigating cases of violent deaths, in the light of the standards set forth in the present report.