

**INTER-AMERICAN COURT OF HUMAN RIGHTS**

***CASE OF FLORES BEDREGAL ET AL. V. BOLIVIA***

**JUDGMENT OF OCTOBER 17, 2022**

***(Preliminary Objections, Merits, Reparations and Costs)***

In the *Case of Flores Bedregal et al. v. Bolivia*,

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

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

also present,

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

pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Articles, 31, 32, 42, 65 and 67 of the Court's Rules of Procedure (hereinafter "the Rules of Procedure"), delivers this judgment structured as follows:

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**I**  
**INTRODUCTION OF THE CASE AND CAUSE OF ACTION**

1. *The case submitted to the Court.* – On October 18, 2018, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the jurisdiction of the Inter-American Court, in accordance with Articles 51 and 61 of the American Convention, the case of Flores Bedregal against the Plurinational State of Bolivia (hereinafter "the State" or "Bolivia"). According to the Commission, the dispute concerns Bolivia's alleged international responsibility for the Forced Disappearance of Juan Carlos Flores Bedregal (hereinafter also "Mr. Flores Bedregal" or "the alleged victim"), leader of the Revolutionary Workers Party (hereinafter "POR") and National Deputy, allegedly perpetrated with the participation of the Armed Forces, in the framework of the coup d'état of July 1980 and for impunity for these acts. The Commission decided that the State is responsible for the violation of the rights to recognition as a person before the law, life, humane treatment, personal liberty, judicial guarantees, freedom of association, political rights, and judicial protection, to the detriment of Juan Carlos Flores Bedregal, as well as for the violation of the rights to humane treatment, judicial guarantees, freedom of thought and expression and judicial protection to the detriment of her sisters Olga Beatriz, Eliana Isbelia, Verónica and Lilian Teresa Flores Bedregal (hereinafter also "Flores Bedregal sisters" or "alleged victims").

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

- a) *Petition.* – On June 14, 2006, Olga Flores Bedregal lodged the initial petition to the Commission, which was processed under number P616/06.
- b) *Admissibility report.* – On August 4, 2009, the Commission approved Admissibility Report No. 65/09 (hereinafter "Admissibility Report") and was made available to the parties in order to reach a friendly settlement.
- c) *Merits report.* - On May 8, 2018, the Commission approved Merits Report No. 60/18 (hereinafter "Merits report"), in accordance with Article 50 of the Convention, in which it reached a series of conclusions and made several recommendations to the State.
- d) *Notification to the State.* – The Merits report was notified to the State on July 18, 2018, and it was given two months to report on compliance with the recommendations.
- e) *Submission to the Court.* – On October 18, 2018, the Commission submitted to the Court's jurisdiction all the facts and alleged violations of the rights enshrined in Articles 3, 4.1, 5.1, 5.2, 7, 8.1, 13, 16, 23, and 25.1 of the American Convention, in relation to Articles 1.1 and 2 of the same instrument, and Articles I (a) and (b) and III of the Inter-American Convention on Forced Disappearance of Persons (hereinafter also "IACFDP"). This Court notes with concern that more than twelve years elapsed between lodging the initial petition to the Commission and submitting the case to the Court.
- f) *Request of the Inter-American Commission.* – Based on the foregoing, the Commission asked the Court to conclude and declare that Bolivia was internationally responsible for the alleged violation of the rights described in the conclusions of the Merits report. In addition, it asked the Court to order the State certain reparation measures (*infra* Chapter VIII).

## II PROCEEDINGS BEFORE THE COURT

3. *Notification TO the State and the representatives.* – The submission of the case by the Commission was notified to the State on January 10, 2019, and was notified to the representatives of the alleged victims on December 10, 2019.<sup>1</sup>
4. *Brief with pleadings, motions and evidence.* – On February 9, 2019, the representatives presented their brief of pleadings, motions and evidence (hereinafter "pleadings and motions brief"), pursuant to Articles 25 and 40 of the Court's Rules of Procedure. In said brief, they agreed with the Commission's allegations and added arguments concerning the alleged violation of Article 5 of the Convention, to the detriment of the Flores Bedregal sisters.
5. *Answering brief .* - On May 13, 2019, the State<sup>2</sup> submitted its answering brief to the Court in response to the submission of the case, and to the brief with pleadings and motions (hereinafter "answering brief"), under the terms of Article 41 of the Court's Rules of Procedure. In this brief, the State presented three Preliminary objections to the exercise of the Court's jurisdiction in this case.
6. *Observations on the preliminary objections.* - On June 27 and July 4, 2019, the representatives and the Commission, respectively, presented their observations on the preliminary objections, in which they requested that these be dismissed by the Court.
7. *Public hearing.* – On December 8, 2021, the President of the Court issued an order,<sup>3</sup> in consultation with the plenum of the Court, by which it ordered to receive the statements admitted by the order of February 13, 2020.<sup>4</sup> Likewise, in that order, the President summoned the parties and the Commission to a public hearing that was held on February 10, 2022<sup>5</sup>, in which three statements were received, as well as the observations and final oral arguments of the Commission, the representative of the alleged victims, and the State, respectively.

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<sup>1</sup> The representative of the alleged victims is Rafael Humberto Subieta Tapia.

<sup>2</sup> The State appointed Messrs. Pablo Menacho Diederich, Attorney General of the Plurinational State of Bolivia; Jaime Ernesto Rossell Arteaga, Deputy Solicitor General for Defense and Legal Representation of the State, and Ms. Yovanka Beatriz Oliden Tapia, General Director of Defense in Human Rights and Environment a.i., as Agents for this case.

<sup>3</sup> Cf. *Case of Flores Bedregal v. Bolivia*. Call to hearing. Order from the President of the Inter-American Court of Human Rights, dated December 8, 2021. Available at: [https://www.corteidh.or.cr/docs/asuntos/flores\\_bedregal\\_08\\_12\\_2021.pdf](https://www.corteidh.or.cr/docs/asuntos/flores_bedregal_08_12_2021.pdf)

<sup>4</sup> Cf. *Case of Flores Bedregal v. Bolivia*. Call to hearing. Order from the President of the Inter-American Court of Human Rights, dated December 13, 2020. Available at: [https://www.corteidh.or.cr/docs/asuntos/flores\\_bedregal\\_13\\_02\\_2020.pdf](https://www.corteidh.or.cr/docs/asuntos/flores_bedregal_13_02_2020.pdf). By means of this Order, the President of the Court convened a public hearing to be held on March 18 and 19, 2020. This public hearing was suspended on March 11, 2020. in response to the "National Sanitary Guidelines for Coronavirus Infection Surveillance," issued by the Ministry of Public Health of Costa Rica.

<sup>5</sup> The following appeared at this hearing: (a) for the Inter-American Commission: Pedro José Vaca Villarreal, Special Rapporteur for Freedom of Expression of the Commission, the attorney Jorge Meza Flores, and the attorney Analía Banfi Vique, of the Secretariat of the Commission, and the attorney César Mauricio González Flores, of the Office of the Special Rapporteur for Freedom of Expression of the IAHCR; (b) by the representatives of the alleged victims: Rafael Humberto Subieta Tapia, Karinna Fernández Neira, and André Rodolfo Lange Schulze, and (c) for the Plurinational State of Bolivia: Jaime Mauricio Quiroga Carvajal, Chargé d'Affaires a.i. of the Embassy of the Plurinational State of Bolivia to Costa Rica; Jhanneth Del Rosio Bustillos Bustillos, General Director of Human Rights and Environment Defense, and Ximena Miriam Fajardo Navarro, Head of the Case Unit in the Stage on the Merits and Human Rights Committee.

8. *Amici curiae*. – This Tribunal received three *amicus curiae* briefs filed by: (a) Robert F. Kennedy Human Rights<sup>6</sup>; (b) Legal Clinic on Freedom of Information and Transparency of the University of the Pacific<sup>7</sup>, and (c) Ankawa International/Centre for Human Rights<sup>8</sup>.

9. *Final written arguments and observations*. – On March 10, 2022, the parties presented their final written arguments with their respective annexes. On the same date, the Commission presented its final written observations.

10. *Observations on the annexes to the final arguments*. – On March 22, 2022, the representatives and on March 28, 2022, the State, respectively, submitted their observations on the annexes presented together with the final written arguments from the other party. On March 28, 2022, the Commission indicated that it had no observations on the annexes presented by the parties in this case.

11. *Other briefs*. – On April 18, 2022, a brief was received from the representative in which it refers to an act of posthumous recognition of Juan Carlos Flores Bedregal by the State based on an agreement with Adela Hortensia Villamil, who is Mr. Flores Bedregal's widow. On May 2, 2022, the Inter-American Commission reported on petition P-1186/09 filed by Ms. Villamil, which was reportedly withdrawn following an agreement between the petitioner and the State. According to the Commission's submissions, such agreement was not approved by the Commission because it was incompatible with the findings of fact and law established in Merits Report No. 60/18. On May 10, 2022, the State submitted its observations on the matter.

12. *Expenditures under the Assistance Fund*. – On April 1, 2022, the Secretariat, following instructions from the President of the Court, sent information to the State on the expenditures of the Victims' Legal Assistance Fund (hereinafter "the Fund ") in this case. In addition, in accordance with Article 5 of the Court's Rules of Procedure on the Operation of the aforementioned Fund, the Secretariat granted the State a period of time to submit any observations it deemed pertinent. On April 13, 2022, the State submitted its observations.

13. *Deliberation of this case*. – The Court deliberated this judgment on September 5, 6 and 9, and October 4 and 17, 2022.

### **III JURISDICTION**

14. The Court has jurisdiction to hear this case pursuant to Article 62(3) of the Convention, because Bolivia has been a State Party to the American Convention since July 19, 1979, and accepted the contentious jurisdiction of the Court on July 27, 1993.<sup>9</sup> It also deposited the instrument of ratification of the ICPPT on May 5, 1999.

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<sup>6</sup> The brief was signed by Angelita Baeyens, Program Director, Advocacy and International Litigation, and Deirdre Dlugoleski. The brief analyzes the content and interpretation of the right to access information for victims of serious human rights violations, with special reference to the *Case of Flores Bedregal et al. v. Bolivia*.

<sup>7</sup> The brief was signed by Andrés Calderón, Head of the Academic Department of Law at the University of the Pacific and Director of the Legal Clinic on Information Freedom and Transparency. The brief analyzes the right to access to information in the context of Forced Disappearances, with special reference to the *Case of Flores Bedregal et al. v. Bolivia*.

<sup>8</sup> The brief was signed by Amílcar Romero Beltrán, President of Ankawa Internacional, and Claudio Renato A. Sotelo Torres, Director of the Human Rights Directorate of Ankawa International. The brief analyzes the right to access to information in cases of serious human rights violations.

<sup>9</sup> At the moment of depositing the optional clause, on July 27, 1993, Bolivia presented an interpretative declaration regarding its recognition of the Court's jurisdiction, in the following terms "[t]he precepts of unconditionality and indefinite term shall be applied in strict observance of the Political Constitution of the Bolivian

## IV PRELIMINARY OBJECTIONS

15. In the instant case, the State raised three preliminary objections, as follows: (a) *ratione temporis* jurisdiction of the Court; (b) *ratione materiae* jurisdiction of the Court; and (c) failure to exhaust domestic remedies in relation to the request for reparations. Since the preliminary objections *ratione temporis* and *ratione materiae* are closely related, the Court will examine them together.

### **A. Preliminary objections to lack of *ratione temporis* and *ratione materiae* jurisdiction**

#### **A.1. Arguments of the parties and of the Commission**

16. The **State** affirmed that the Court does not have jurisdiction to rule on the alleged violation of the rights to juridical personality, personal liberty, humane treatment, life, judicial guarantees, and judicial protection, to the detriment of Juan Carlos Flores Bedregal. This, on the grounds that domestic courts have acted based on the idea that the alleged victim was murdered on July 17, 1980 and that the Supreme Court of Justice ruled on the matter in the cumulative Suits for Damages, pursued by the Public Prosecutor and its interveners against Luis García Meza Tejada and his collaborators (hereinafter also "Suits for Damages"), by judgment of April 15, 1993. The State argued that, since both events predate Bolivia's recognition of the contentious jurisdiction of the Court, the Court lacks temporal jurisdiction to rule on the alleged violations of the alleged victim's human rights. The State also argued that the Court lacks subject-matter jurisdiction to interpret and apply the American Convention and the ICPPT, because the facts of this case relate to a homicide and not to a Forced Disappearance.

17. For their part, **the Commission and the representative** argued that this preliminary objection should be rejected, since the classification of the facts – whether as Forced Disappearance or as unlawful death – is a matter underlying an analysis of the merits of the case and not for the jurisdiction stage.

#### **A.2. Considerations of the Court**

18. The State argued that the Court lacks jurisdiction to apply the American Convention and the ICPPT to the instant case because Mr. Flores Bedregal was allegedly murdered on July 17, 1980, years before Bolivia recognized the Court's contentious jurisdiction and ratified the ICPPT, respectively. The Commission and the representative alleged that the Court has jurisdiction to examine the case since the effects of the failure to clarify the fate of Mr. Flores Bedregal extended continuously to the present date, since it relates to a Forced Disappearance.

19. The Court notes that there is no dispute between the parties as to the date on which the acts of violence that initially affected the alleged victim occurred within the framework of the seizure of the Bolivian Workers' Center during the 1980 coup d'état, nor as to whether these particular facts occurred prior to the deposit of the optional clause by Bolivia on July 27, 1993. The dispute arises as to the classification and scope of the facts of July 17, 1980, and their effects over time; the State considers that Mr. Flores Bedregal's death was

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State, especially the principles of reciprocity, non-retroactivity, and judicial autonomy" (Note OEA/MI/262/93 of July 22, 1993).

perpetrated in 1980, while the representatives and the Commission alleged that neither the circumstances of Mr. Bedregal's death nor his whereabouts have yet been clarified, so he would be the victim of Forced Disappearance with effects continuing over time.

20. This Court has held from its earliest cases<sup>10</sup> that the disappearance of persons involves multiple and continuing violation of several rights recognized in the Convention and in general international law, which States are obliged to respect and guarantee. Likewise, the United Nations Declaration on the Protection of all Persons from Enforced Disappearance (1992) includes several principles of international law on the matter, which can be invoked pursuant to Article 29(d) of the American Convention. Specifically, Article 17(1) states that "[a]cts constituting Forced Disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified."<sup>11</sup> The foregoing means that the violation of the rights affected as a result of the Forced Disappearance may extend continuously or permanently until the fate or whereabouts of the victim are established. These principles were later taken up by treaties such as the aforementioned Inter-American Convention on Forced Disappearance of Persons, and the International Convention for the Protection of All Persons from Enforced Disappearance, adopted within the United Nations framework. Both instruments were duly ratified by Bolivia.

21. In the instant case, the Court notes that the characterization of the conduct perpetrated on July 17, 1980, and its continuing effects are part of the dispute in this process. Therefore, before determining the sources of the applicable international obligations and how long they have been in force for Bolivia, the Court must examine the facts and evaluate the evidence on the record.

22. In conclusion, the resolution of the preliminary objections *pm ratione temporis* and *ratione materiae* articulated by the State in relation to the Court's jurisdiction depends on the determination of the facts that will be part of the analysis in the merits of this Judgment and, therefore, it is not appropriate to address it at the stage of preliminary objections.

23. Regarding the Court's alleged lack of jurisdiction by reason of time in relation to the judgment issued on April 15, 1993, in the cumulative Suits for Damages followed by the Public Prosecutor and its interveners against Luis García Meza Tejada and his collaborators, this Court notes that neither the Commission nor the representatives have requested any ruling on the process or the judgment in question. Therefore, it considers that the objection is unfounded, without prejudice to which – as it has done previously – the Court may refer to said judgment as a fact "with the sole purpose of providing a context for the examination of the alleged violations."<sup>12</sup>

## **B. Preliminary objection on failure to exhaust domestic remedies in relation to the request for reparation**

### **B.1. Arguments of the parties and of the Commission**

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<sup>10</sup> Cfr. *Case of Velásquez Rodríguez v. Honduras. Merits*. Judgment of July 29, 1988. Series C No. 4, paras. 149 and 150; *Case of Godínez Cruz v. Honduras. Merits*. Judgment of January 20, 1989. Series C No. 5, paras. 157 and 158; *Case of Fairén Garbi and Solís Corrales v. Honduras. Merits*. Judgment of March 15, 2018. Series C No. 6, para. 147, and *Case of Julien Grisonas Family v. Argentina. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of September 23, 2021. Series C No. 437, para. 129.

<sup>11</sup> Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in its resolution 47/133 of December 18, 1992, article 17.1.

<sup>12</sup> Cf. *Case of Heliodoro Portugal v. Panama. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 12, 2008, Series C No. 186, paras. 108 and 109.

24. The **State** argued that – owing to their character as victims in the Suits for Damages against Luis García Meza Tejada and his collaborators, as well as in the ordinary criminal procedure of the "Public Prosecutor v/ Franz Pizarro Solano et al.," the relatives of Juan Carlos Flores Bedregal had the domestic legal mechanisms of reparation at their disposal, which, for the first process, took into account the abrogated Code of Criminal Procedure of 1972; and for the second process, Law No. 1970 of March, 25, 1999. It alleged that those remedies were not exhausted in a timely manner.

25. The **Commission** noted that the State invoked this objection for the first time in the brief filed on January 19, 2011, almost a year and a half after adopting Admissibility Report No. 65/09 of August 4, 2009. Therefore, it argued that this preliminary objection was not filed by the State at the appropriate procedural time. It further stated that the Convention does not require the exhaustion of additional remedies for reparation when remedies linked to the determination of predicate violations have already been exhausted, as this would impose a disproportionate burden on victims seeking international protection.

26. The **representatives** argued – as the Commission pointed out in its Admissibility Report – that the fact that decades have elapsed without determining the whereabouts of the alleged victim or clarifying what happened is sufficient to conclude that there was an unjustified delay that exempts the petitioner party from exhausting domestic remedies. It added that the preliminary objection formulated by the State does not meet the material or formal requirements demanded by the Court's case law in demonstrating that the remedies pending exhaustion were appropriate, suitable, or effective in relation to the victims' claim in this case. It also noted that this argument on admissibility was not presented at the appropriate procedural time.

## **B.2. Considerations of the Court**

27. The American Convention establishes that the Court may only exercise its contentious jurisdiction in cases in which it has previously complied with the procedures provided for in Articles 44 to 50 of the Treaty that refer to the study of individual petitions by the Commission. The State questions the exercise of the Court's contentious jurisdiction in this case based on the alleged failure to comply with the rules governing the admissibility of individual petitions, specifically, those relating to the prior filing and exhaustion of domestic remedies.

28. However, Article 46 of the American Convention states that examining the exhaustion of domestic remedies as a requirement for the admissibility of petitions is subject to generally recognized principles of international law. The principles governing international contentious proceedings and the precedents established by the Court in its case law and by the Commission in its reports indicate that objections as to whether or not domestic remedies have been exhausted as a prerequisite for access to international protection are only enforceable on States at the appropriate procedural time, in this case, during the admissibility procedure before the Commission.<sup>13</sup>

29. As understood from the proceedings of this case, Petition No. 616/06 on the alleged violations of the American Convention perpetrated against Juan Carlos Flores Bedregal and his family was declared admissible by Admissibility Report No. 65/09 of August 4, 2009, communicated to the State on August 14, 2009. However, the State only alleged the failure to exhaust domestic remedies in relation to material reparations, through the brief of

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<sup>13</sup> Cfr. *Case of Velásquez-Rodríguez v. Honduras. Preliminary Objections*. Judgment of June 26, 1987. Series C No. 1, para. 85, and *Case of Sales Pimenta v. Brasil. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of June 30, 2022. Series C No. 454, paras. 26 and 27.

"additional observations" filed on January 19, 2011, that is, almost two years after the ruling on the admissibility of Petition No. 616/06 by the Commission.

30. Allegations seeking to challenge the Commission's jurisdiction to examine a petition on the basis of non-compliance with the requirement of exhaustion of domestic remedies provided for in Article 46 of the American Convention must be presented following the admissibility procedure before the Commission.<sup>14</sup> Any subsequent allegation concerning the failure to exhaust domestic remedies must be considered extemporaneous. Since the prior exhaustion of domestic remedies is considered a requirement of admissibility that can be waived by the State, the silence or omissions of the State during the admissibility procedure must be interpreted as an acceptance of the Commission's jurisdiction to examine the petition. Therefore, the extemporaneous submission of allegations of failure to exhaust domestic remedies with the Commission cannot serve as a basis for questioning compliance with the requirements established in Article 46 of the Convention and, consequently, the Court's jurisdiction to examine the case, once it has been so referred.

31. Consequently, the Court concludes that the preliminary objection presented by the State concerning the failure to exhaust domestic remedies in this case is extemporaneous, which is why it must be rejected.

## V TESTIMONY

### A. Admissibility of documentary evidence

32. The Court received various documents submitted as evidence by the Commission and the parties, annexed to their pleadings in their main briefs. In this case, as in others,<sup>15</sup> the Court admits the evidentiary value of those documents presented by the parties and by the Commission within the appropriate procedural moment. The parties did not dispute or object to those documents and did not question their authenticity.

33. In their observations, the **representatives** asserted that some of the annexes presented by the State with its final written arguments are new, but were presented without justification and after the term to do so had expired; others are found to be either incomplete, incoherent, illegible, or irregular. Meanwhile, others had already been presented by the State on previous occasions, together with the response, making them redundant and unnecessary. The **Court** notes that the State sent several new documents with its final written arguments without justifying why they were being submitted, in accordance with the provisions of Articles 57 and 58 of the Rules of Procedure. In addition, the Court has found that the documents contained in annexes 6 and 8 were issued after the response was filed on May 13, 2019. In view of the foregoing, this Court admits the documents in accordance with Article 57 of the Court's Rules of Procedure, insofar as they relate to events that occurred after the submission of the answering brief.<sup>16</sup> Regarding annexes 3 and 11, concerning documents related to the Truth Commission, these seek to answer aspects indicated during the public hearing, so they

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<sup>14</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Preliminary Objections*, *supra*, para. 88, and *Case of Sales Pimenta v. Brasil*, *supra*, para. 27.

<sup>15</sup> Cfr. *Case of Velásquez-Rodríguez v. Honduras. Merits*, para. 140, and *Case of Sales Pimenta v. Brasil*, *supra*, para. 37.

<sup>16</sup> Namely: Resolution No. 043/2022 of the Second Court of Criminal Judgment, of March 2, 2022 (case file evidence, p. 9276-9279); Report by Sarina Guardia Guardia, District Prosecutor regarding the Visual Inspections of December 16 and 17, 2021, and photographic record, of February 3, 2022 (case file evidence, p. 9283-9310).

must be incorporated into the file.<sup>17</sup> In addition, the State submitted another document on which, as indicated, it did not adduce any justification and/or is incomplete, so the Court considers it inadmissible because it was filed extemporaneously.<sup>18</sup> Finally, this Court has verified that part of the documentation<sup>19</sup> provided already appears in the body of evidence of this case, so that it is dispensed with because it has already been incorporated.

34. Regarding the documents submitted by the representatives in their final written arguments, the State argued that Annex 1 is "actually a letter signed by Olga Flores Bedregal and addressed to the Court [...] in which the same arguments presented in the [f]inal [w]ritten [a]rguments are reiterated"; and that annexes 7 and 8 include an unsigned budget and synopsis, and a budget issued in English, as their credibility cannot be inferred, they are considered unnecessary without being linked to the spatial scope of the case. This Court contends that some submitted documents correspond to records related to the expenditures incurred in the processing of the instant case, after the submission of the application and arguments,<sup>20</sup> and therefore, it is appropriate to admit them. With respect to the documents contained in annexes 3 and 4,<sup>21</sup> they are related to events subsequent to the submission of the brief of applications and arguments, and the Court therefore admits them in accordance with Article 57 of the Court's Rules of Procedure. With respect to annex 5, referring to the letter from one of the nephews of Olga Flores Bedregal, and annex 6 corresponding to its translation,<sup>22</sup> it was mentioned during the public hearing by Olga Flores Bedregal, and therefore, it is included in the case file. Lastly, the documents contained in annexes 1, 2, 7, 8, and 9<sup>23</sup> are inadmissible because they have not been justified or requested as evidence by this Court.

## **B. Admissibility of the statements of the alleged victims, testimonial, and expert evidence**

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<sup>17</sup> Namely: Truth Commission, Historical Memory of Dictatorship Investigations 1964-1982 and Truth Commission. Report. Volume I. Methodology. General Scheme of the Truth Commission Archive (case file evidence, p. 8391-9185 and 9322-9323, respectively).

<sup>18</sup> Namely: Death certificate of Juan Carlos Flores Bedregal issued on August 17, 2011. This document does not certify or include any information about: the place of death; the cause of death; the name of the person certifying the death; the registration number or page number where the death is recorded.

<sup>19</sup> The State submitted the following documents that already appeared in the case file: Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, issued in the consolidated Suits for Damages pursued by the Public Prosecutor and its interveners against Luis García Meza Tejada and his collaborators; document entitled "Protocol for the removal of the body," referring to Juan Carlos Flores Bedregal and Marcelo Quiroga Santa Cruz, dated July 18, 1980, and Order for forensic medical examination; Technical Report No. 0915/98 – Technical Visual Inspection, March 1998; Arrest Warrant against Felipe Froilán Molina Bustamante, of April 14, 2015; Ministerial Resolution No. 316/2009, issued by the Ministry of Defense on May 19, 2009; Order No. 93/2010 of May 12, 2010 and Law No. 879 "Law on the Truth Commission" of December 23, 2016.

<sup>20</sup> The representatives submitted the following proof of expenditure: Invoices for stationery expenses disbursed in litigation before the Court; Cochabamba – La Paz boarding passes (round trip) of July 17, 2019; invoices issued by the representative Rafael Subieta on behalf of Olga Flores Bedregal, second and third installments; Karinna Fernández Neira's air ticket Santiago de Chile – San José - Costa Rica (round trip); André Lange S's air ticket Santa Cruz - Bolivia - San José - Costa Rica (round trip); Casa Cambranes Hotel Invoice – San José de Costa Rica: Karinna Fernández Neira; Casa Cambranes Hotel Invoice – San José de Costa Rica Hotel: André Lange S and Cochabamba – Santa Cruz- Bolivia (round trip) airline ticket invoice: André Lange S. (case of file evidence, p. 9405-9425).

<sup>21</sup> The representatives submitted the following documents: Certificate issued by San Pedro de La Paz Prison on February 10, 2022, and Letter from the Prosecutor General of the State of Bolivia of April 20, 2021 (notified on April 22, 2021), addressed to the Library of the Plurinational Legislative Assembly (case file evidence, p. 9374-9376 and 9378-9379, respectively).

<sup>22</sup> The representatives presented Annex 5 corresponding to the Letter from Veronica Flores' son: Nemanja Lukic Flores (1972 -2001), addressed to Olga Flores and in Annex 6 its translation (case file evidence, p. 9381 and 9383).

<sup>23</sup> The documents are as follows: Document on "Express Views" of the alleged victims; General and comparative charts of judicial processes; Ana Llacer's budget for bibliographic film; Synopsis of the bibliographic film, and Manuscript of the draft Environmental Law.

35. Likewise, the Court considers it pertinent to admit the statements of the alleged victims, the testimony of the witness, and the expert opinions rendered in the public hearing and by affidavit, in the context of this case, to the extent that they conform to the subject matter defined by the President in the Orders for their reception.<sup>24</sup>

36. With respect to the expert opinion rendered by Kate Doyle during the public hearing of February 10, 2022, the State requested that it be eliminated from the analysis of the Merits Report in this case because it was not previously communicated in writing to the State, and due to "the clear partiality, incongruity, and impertinence of the offered expert evidence." The Court notes, first, that the statement was given orally in accordance with the provisions of the Order for Call to Hearing, therefore, there is no written version and, second, the State's considerations regarding the expert report refer to its evidentiary value, not to its admissibility as evidence. Consequently, the Court admits the expert opinion and notes that the considerations made by Bolivia will be taken into consideration at the time of the evaluation of the evidence.

## **VI FACTS**

37. The facts of this case will be determined by the Court based on the factual framework presented by the Commission, the allegations of the parties, and the evidence provided, in the following order: (A) Juan Carlos Flores Bedregal; (B) The events of July 17, 1980 and the attempts to find the whereabouts of Juan Carlos Flores Bedregal; (C) Judicial and administrative proceedings, and (D) Attempts to identify the remains as part of the search for Juan Carlos Flores Bedregal. The facts prior to the acceptance of the Court's jurisdiction by the State, whose consideration is necessary for the purpose of establishing whether they are continuous conduct, will be taken into account as background to the case.

### **A. About Juan Carlos Flores Bedregal**

38. Juan Carlos Flores Bedregal was born on February 4, 1953, in the city of La Paz, Murillo Province, Bolivia. His parents were Fidel Flores Carrasco and Carmen Bedregal Iturri;<sup>25</sup> and his sisters are Veronica, Eliana Isbelia (deceased),<sup>26</sup> Lilian Teresa, and Olga Beatriz, all of them of the last names Flores Bedregal.<sup>27</sup> Adela Hortensia Villamil has been identified as his

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<sup>24</sup> In public hearing, the Court received the statement of the alleged victim Olga Beatriz Flores Bedregal, offered by the representative; the witness Eduardo Germán Domínguez Bohrt, offered by the State, and the expert Kate Doyle, proposed by the Commission. Likewise, the Court received the statements by affidavit of the alleged victims Verónica and Lilian Teresa, both Flores Bedregal, and the expert opinions of Federico Andrés Paulo Andreu Guzmán, Guiomar Hylea Bejarano Gerke, and Marcelo Pablo Pacheco Camacho. The subject matter of said statements is set out in the Resolutions of the Presidency of the Court issued on February 13, 2020 and December 8, 2021, *supra*.

<sup>25</sup> *Cfr.* Birth certificate of Juan Carlos Flores Bedregal (case file evidence, p. 113).

<sup>26</sup> Eliana Isbelia Flores Bedregal passed away on July 2, 2017, in La Paz, Bolivia. *Cf.* Death certificate of Eliana Isbelia Flores Bedregal (case file evidence, p. 5160).

<sup>27</sup> *Cf.* Birth certificates of Olga Beatriz, Eliana Isbelia, Veronica and Lilian Teresa, all of them Flores Bedregal (case file evidence, p. 115-118).

life partner.<sup>28</sup> In 1970, Mr. Flores Bedregal entered Medical School<sup>29</sup> and subsequently changed his major to Economics.<sup>30</sup> He began his activism in the Revolutionary Workers Party ("POR")<sup>31</sup> in 1973. In 1979, he was elected as alternate Congressman for the Department of Chuquisaca, under the Democratic and Popular Unity party lists, and was sworn in as congressman in November 1979.<sup>32</sup>

39. In 1980, as leader of his party and congressman in office, he was part of the National Committee for the Defense of Democracy (hereinafter "CONADE"), an entity composed of the Bolivian Workers' Federation (hereinafter "COB"), political parties, religious organizations, the Permanent Assembly for Human Rights, and other civic-popular entities.

### **B. Facts of July 17, 1980 and the attempts to find the whereabouts of Juan Carlos Flores Bedregal**

40. As it has been recognized by the State and established by this Court in a previous case,<sup>33</sup> in July 1980 there was a coup d'état in Bolivia, led by General Luis García Meza Tejada. In this context, on July 17, 1980, the Presidential Palace was taken by military forces and the acting Constitutional President, Lidia Gueiler, was obliged to resign from office. The Military Junta assumed the functions of the executive, legislative, and judicial powers and also exercised the constituent power.<sup>34</sup> On that same date, as part of Operation "Hornet," military and paramilitary forces attacked and occupied the COB [Bolivian Workers' Federation] building where CONADE [National Committee for the Defense of Democracy] was meeting.<sup>35</sup>

41. It is an undisputed fact that Juan Carlos Flores Bedregal was in the COB at the time of the incursion.<sup>36</sup> The attackers drove CONADE leaders, including Juan Carlos Flores Bedregal, out of the building with their hands on the back of their necks<sup>37</sup>. It is alleged that the assailants recognized the political leader and deputy Marcelo Quiroga Santa Cruz,<sup>38</sup> who they separated from the group in order to execute him. According to the affidavit of witness Eduardo

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<sup>28</sup> Adela Hortensia Villamil was not a petitioner in complaint P-616/06 before the Inter-American Commission, nor is she party to this case before the Court. It has been noted that Adela Hortensia Villamil was constituted as a petitioner before the Commission through the claim registered under number P-1186/09 and processed separately from the petition previously presented by the Flores Bedregal sisters. As a result of the said petition, Mrs. Villamil and the State reached an agreement on the granting of a pension and other reparations, in exchange for the withdrawal of the claim. Said agreement was not approved by the Commission because it was inconsistent with the findings of fact and law of the Merits Report No. 60/18 in the instant case.

<sup>29</sup> Cf. Statement of Verónica Flores Bedregal rendered by affidavit on March 3, 2020 (case file evidence, p. 8926 to 8957), and Publication entitled "Unfinished letter to my brother Carlos," authored by Olga Flores Bedregal (case file evidence, p. 120-206).

<sup>30</sup> Cf. Statement of Lilian Teresa Flores Bedregal rendered by affidavit on March 5, 2020 (case file evidence, p. 8959-8982).

<sup>31</sup> Cf. Statements by Lilian Teresa and Verónica Flores Bedregal, *supra*, and Publication entitled "Unfinished letter to my brother Carlos," *supra*.

<sup>32</sup> Cf. Publication titled "Unfinished letter to my brother Carlos," *supra*.

<sup>33</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia. Merits, Reparations, and Costs*. Judgment of November 27, 2008. Series C No. 191.

<sup>34</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia, supra*, para. 46.

<sup>35</sup> Cf. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, issued in the cumulative Suits for Damages pursued by the Public Prosecutor and its interveners against Luis García Meza Tejada and his collaborators (case file evidence, p. 8-111).

<sup>36</sup> The judicial authorities determined that the alleged victim was at the headquarters of the COB at the time of the armed assault on July 17, 1980, in the context of the coup d'état. National deputy and socialist leader Marcelo Quiroga Santa Cruz and deputy Juan Carlos Flores Bedregal were meeting at the COB. These facts were not contested by the State. Cf. Order 129/2007 of the Second Circuit Criminal Court of the District of La Paz, of December 12, 2007. Trial against Franz Pizarro Solano and others for the crimes of armed uprising against the security and sovereignty of the State et al. (case file evidence, p. 210-252).

<sup>37</sup> Cf. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, *supra*.

<sup>38</sup> References to the facts relating to Marcelo Quiroga Santa Cruz are part of the background and context of the instant case and do not constitute any legal analysis or determination by the Court.

Domínguez Bohrt, Juan Carlos Flores Bedregal was recognized by the assailants and received a blast of gunfire.<sup>39</sup> The State contends that Mr. Flores Bedregal died at that moment.

42. According to the State's version, the body of Juan Carlos Flores Bedregal was subsequently found by police officers in a ravine<sup>40</sup>, and said police officers allegedly removed the body without the participation of a forensic doctor and without documenting the crime scene.<sup>41</sup> According to this version, the body was transferred to the Clinical Hospital morgue, from where it was apparently removed<sup>42</sup> without having been able to be located and identified to the present day.

43. The representatives alleged that, following his arrest and the immediately subsequent acts of violence, Juan Carlos Flores Bedregal was transferred by ambulance to the Headquarters,<sup>43</sup> and his whereabouts or the fate of his remains have not been determined since then. On July 17, 1980, the Flores Bedregal sisters began searching for their brother. At the public hearing, Olga Flores Bedregal said that she personally searched for him in the morgue. His uncle, who was a doctor, went to the hospitals to find out if any injured person had been taken to them. His sister Eliana, who was pregnant at the time, went to the detention centers. The Bedregal sisters filed complaints and initiated investigations and judicial proceedings. In her statement, Veronica Flores, who was living in Belgrade at the time, went to the Red Cross in that city to file a complaint with the Swiss Red Cross. In 1986, she returned to Bolivia and participated in the search for her brother.<sup>44</sup>

44. The search for Juan Carlos Flores Bedregal was permeated by the context of the coup d'état of July 1980. From that moment on, the de facto government established a regime of repression in which military forces and premilitary groups committed serious violations of human rights within a framework of impunity that benefited the systematic practice of illegal detentions, tortures, and the Forced Disappearance of people.<sup>45</sup> Thousands of people were detained without due process as a result of a systematic practice of detention, unlawful arrests, and torture. The principal methods used to conduct interrogations consisted of beatings, electric shocks, sexual abuse, mock executions, cigarette burns, psychological duress, and other acts of intimidation against the detainees or their family members.<sup>46</sup>

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<sup>39</sup> Cfr. Statement by Eduardo Germán Domínguez Bohrt, of May 13, 2019, based on a statement rendered before the Truth Commission, on April 11, 2019 (case of file evidence, p. 8873-8876), and the statement offered before the Court by Eduardo Germán Domínguez Bohrt, during the public hearing held on February 10, 2022.

<sup>40</sup> The internal proceeding includes the statements of Messrs. Joaquín Quisbert Quiroga and Rogelio Gómez Espinoza, officials of the Headquarters of the Criminal Investigation Directorate, who indicated that together with other persons, they proceeded to remove the bodies of Juan Carlos Flores Bedregal and Marcelo Quiroga in the vicinity of the road to Mallasa, in the city of La Paz. They pointed out that "both bodies had been thrown off a cliff and had gunshot wounds." Rogelio Gómez Espinoza also pointed out that they deposited the bodies in the Morgue of the Clinical Hospital (Hospital de Clínicas) and half an hour later they found out that the bodies had been stolen. Cf. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, *supra*, and Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*. These statements were controversial among the representatives, with the arguments that these police officers were subsequently convicted of the crimes of cover-up and false testimony.

<sup>41</sup> Cf. Record of the removal of the body, Form D4, July 18, 1980 (case file evidence, p. 7372-7374).

<sup>42</sup> Cfr. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, *supra*, and Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>43</sup> In this regard, the Commission makes no mention of the transfer by ambulance of Mr. Flores Bedregal to the Joint Chiefs of Staff.

<sup>44</sup> Cfr. Statement of Olga Beatriz Flores Bedregal rendered before the Court during the public hearing held on February 10, 2022, and statement of Verónica Flores Bedregal, *supra*.

<sup>45</sup> Cfr. *Case of Ticona Estrada et al. v. Bolivia*, *supra*, para. 45.

<sup>46</sup> Cfr. *Case of Ticona Estrada et al. v. Bolivia*, *supra*, para. 48.

### C. Judicial and administrative proceedings

45. After the restoration of democracy in Bolivia in 1982, it was agreed by consensus to investigate the crimes committed by the de facto government of General Luis García Meza Tejada. The investigations conducted made it possible for the National Congress to bring charges against him before the Supreme Court of Justice on February 25, 1986. The ruling established that General Luis García Meza, Colonel Luis Arce Gómez, and their collaborators were responsible for the commission of eight groups of crimes: sedition and restriction on the rights of the people; armed uprising; organization of irregular armed groups; adoption of orders against the Constitution and law; deprivation of liberty; attempt against the right to freedom of the press; obtention of illegal advantages, and violation of the autonomy of the University. The conviction established that the actions carried out during the de facto regime were "prepared and planned acts."<sup>47</sup> In these cumulative Suits for Damages, pursued by the Public Ministry and its interveners against Luis García Meza Tejada and his collaborators, it was established that "Carlos Flores Bedregal and Gualberto Vega Yapura died and the political leader of the Socialist Party, Marcelo Quiroga Santa Cruz, was mortally injured" from the takeover of the COB building.<sup>48</sup>

46. Similarly, an ordinary criminal proceeding was initiated in 1999 for the events that occurred on July 17, 1980, and during said proceeding, the basis of the trial were "the details of the coup d'état of July 17, 1980 [...], as a result of which Marcelo Quiroga Santa Cruz, Carlos Flores Bedregal, and Gualberto Vega Yapura were murdered,"<sup>49</sup> in accordance with the judgment of the Supreme Court of Justice of the Nation of April 15, 1993.

#### C.1. Ordinary criminal proceeding "Public Prosecutor v/ Franz Pizarro Solano et al."

47. On September 3, 1997, the Chamber of Deputies of Bolivia entrusted its Human Rights Commission with "the monitoring and oversight of the search for the remains of [...] Marcelo Quiroga Santa Cruz."<sup>50</sup> Once the investigations had been conducted, on November 17, 1998, the Chamber of Deputies requested that the Investigating Judge on duty in criminal matters of the Judicial District of La Paz issue an initial instruction order to several individuals involved.<sup>51</sup> On February 18, 1999, the Third Magistrate's Court on criminal matters in La Paz (hereinafter also referred to as the "Third Magistrate's Court") issued the initial investigation order<sup>52</sup> in the proceedings "Public Prosecutor v/ Franz Pizarro Solano et al." On May 20 and

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<sup>47</sup> Cfr. *Case of Ticona Estrada et al. v. Bolivia, supra*, para. 49.

<sup>48</sup> Cfr. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, *supra*.

<sup>49</sup> Cfr. Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>50</sup> Cfr. Order of the Chamber of Deputies of Bolivia of September 3, 1997 (case file evidence, p. 268).

<sup>51</sup> An initial investigation order was requested because there was sufficient evidence of guilt against: Franz Pizarro Solano, Felipe Froilan Molina Bustamante, José Luis Ormachea España, for the crimes of murder, armed uprising against the security and sovereignty of the State, criminal organization, terrorism, and cover-up. Likewise, against Raúl Solano Medina, David Humberto Alarcón Romero, César Altamirano Labadenz, Juan Aquize Rada, Rogelio Gómez Espinoza, Joaquín Quisberth Quiroga, Marcos Erminio Mena Vargas, Damian Gutiérrez Castro, and Sebastian Quispe Apaza, for the crimes of criminal association, cover-up, and false testimony. Cf. Chamber Request of the Chamber of Deputies of Bolivia, of November 17, 1998 (case file evidence, p. 272 and 273).

<sup>52</sup> An initial order of investigation was issued, Order No. 45/99, for the crimes of murder, armed uprising against security, terrorism and cover-up against Franz Pizarro Solano, Felipe Froilan Molina Bustamante, and José Luis Ormachea España. Likewise, for the crimes of false testimony, cover-up and criminal organization against Raúl Solano Medina, David Humberto Alarcón Romero, Cesar Altamirano Labadenz, Juan Aquize Rada, Rogelio Gómez Espinoza, Joaquin Quisberth Quiroga, Marcos Erminio Mena Vargas, Damian Gutiérrez Castro, and Sebastián Quispe Apaza. Cf. Initial order of the investigation issued by the Third Magistrate's Court on criminal matters in and for La Paz in the criminal investigation against Franz Pizarro Solano et al., for the crimes of murder et al., of February 18, 1999 (case file evidence, p. 275 and 276).

June 9, 1999, expanded orders of instruction were issued.<sup>53</sup> On March 30, 2000, Mr. Flores Bedregal's sisters appeared before the Third Magistrate's Court and requested information on the proceedings in the criminal case.<sup>54</sup>

48. On April 18, 2001, the Third Magistrate's Court issued the final supplementary order, in which it ordered the arrest of 17 suspects. The case of Juan Carlos Flores Bedregal was included in the proceedings, indicating that "the commission of [...] criminal acts" was being charged, "due to the fact that in July, 1980 there were bloody events in which Marcelo Quiroga Santa Cruz and Carlos Flores Bedregal lost their lives."<sup>55</sup>

49. On September 13, 2002, the Flores Bedregal sisters were the accuser and civil party before the Sixth Magistrate's Court and requested that the suspects be convicted of the crimes of murder, armed uprising against the sovereignty and security of the State, criminal organization, terrorism, very serious injuries, cover-up, and false testimony, and alleged the Forced Disappearance of persons.<sup>56</sup>

50. On May 15, 2006, the sisters Olga and Verónica Flores Bedregal submitted a brief to the Ministers of Government, Justice, and National Defense, in which they requested, among others: (a) to accompany the proceedings being conducted by the Public Prosecutor against those involved in the ordinary criminal proceedings, because the hearings were continuously suspended due to the absence of the defendants and the prosecutor, without the judge taking steps to resolve the situation, and (b) that the Minister of Defense request information on what happened to all the military personnel involved and the necessary files to clarify the facts.<sup>57</sup>

51. On August 22, 2006, the lawyer representing the Flores Bedregal family submitted a request to Second Circuit Criminal Court on criminal matters (hereinafter also "Second Criminal Court") to order the Ministry of Defense "to declassify and remove from the archives the documents of the Armed Forces files corresponding to the year 1980, referring to the case of the coup d'état of July 17, 1980," in order to clarify the whereabouts of Mr. Flores

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<sup>53</sup> In the extension of the investigation order of May 20, 1999, Faustino Rico Toro Herbas is accused of armed uprising, criminal organization and cover-up, and Willy Arriaza Monje is accused of cover-up, criminal organization, and false testimony. Furthermore, in the Extension of the Investigation Order of June 9, 1999, Antonio Arnez, Adolfo Ustares Ferreira, Antonio Gutiérrez Estrada, Carlos Rodrigo Lea Plaza, Gregorio Loza Balza, Javier Hinojosa Valdez, and Daniel Dammy Cuentas Valenzuela are accused of armed uprising, terrorism, cover-up, and criminal organization. *Cf.* Orders extending the investigation issued by the Third Magistrate's Court of Investigation on criminal matters against Franz Pizarro Solano et al. for the crime of murder et al., dated May 20, 1999 No. 14/98 and June 9, 1999 No. 190/99 (case file evidence, p. 7479-7482).

<sup>54</sup> *Cfr.* Brief of appearance presented by Verónica and Lilian Teresa Flores Bedregal on March 30, 2000 (case file evidence, p. 7612 and 7613).

<sup>55</sup> In this order, the initial order against Faustino Rico Toro Herbas, Willy Arriaza Monje, Adolfo Ustares Ferreira, José Gregorio Loza Balza, and Javier Hinojosa Valdez was extended, and a provisional stay of proceedings was issued in favor of Antonio Arnez, Manuel Antonio Gutiérrez Gutiérrez, Carlos Rodrigo Lea Plaza and Daniel Dammy Cuentas Valenzuela, because there was no evidence to presume their participation in the facts of this case. *Cf.* Order No. 158/2001. Final investigation order issued by the Third Magistrate's Court on criminal matters in and for La Paz against Franz Pizarro et al. for the crimes of murder et al., of April 18, 2001 (case file evidence, p. 278-297).

<sup>56</sup> The criminal complaint and their establishment as a civil party were considered formalized on September 13, 2002, while the criminal complaint is dated September 11, 2002. In said brief, it was pointed out that "they had the cynicism to indicate that Deputy FLORES was machine-gunned [...] The whereabouts of his body are currently unknown, and his sisters have nowhere to go and pray the Lord's Prayer to him, or leave him flowers [...] his only male brother, it must be taken into account that Forced Disappearance [...] is a crime against humanity and is not subject to the statute of limitations, according to [a...] its last part of the (new) Code of Criminal Procedure takes into account International Conventions and Treaties fully in force [...]" *Cf.* Complaint filling brief presented by the attorney Eulogia Pantoja Vacaflor on behalf of the Flores Bedregal sisters before the Sixth Criminal Party Court, of September 11, 2002 (case file evidence, p. 7466-7473), Provided on September 13, 2002 (case file evidence, p. 7474), and Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>57</sup> *Cfr.* Brief of the relatives of Juan Carlos Flores Bedregal of May 12, 2006 (case file evidence, p. 316 and 317).

Bedregal.<sup>58</sup> On August 23, 2006, an order was issued requesting that "its request be brought into line with the principle of relevance with respect to the crimes being tried."<sup>59</sup> On August 28, 2006, the Flores Bedregal family reiterated the request.<sup>60</sup> The response was limited to making mention to the "prior opposing notice from the Prosecution's View."<sup>61</sup> On September 23, 2006, the Flores Bedregal family reiterated its request for access to information.<sup>62</sup>

52. On December 12, 2007, the Second Criminal Court, through Resolution No. 129/2007 (hereinafter Resolution No. 129/2007) delivered a conviction in the ordinary criminal proceedings against several defendants. It was deemed to have been proven that Franz Pizarro Solano, Felipe Froilán Molina, and José Luis Ormachea España actively participated in the armed uprising of July 17, 1980, and that although "it has not been possible to determine [...] the direct perpetrator of the death of the leaders, [...] it is no less evident that the murder of Marcelo Quiroga Santa Cruz, Juan Carlos Flores Bedregal and Gualberto Vega Yapura is proven [..., as] the three defendants participated in the seizure of the C.O.B, allowing for the death of the leaders, and participated, both directly and indirectly, in the torture of those apprehended, and having failed to cooperate in clarifying the facts and determining those truly responsible for the death of the leaders and the location of their bodies, the conduct of the three defendants is fully consistent with the crimes for which they were accused." They were sentenced to a 30-year prison sentence without the right to pardon for crimes of armed uprising against the security and sovereignty of the State, terrorism and cover-up, and as accomplices to murder.<sup>63</sup>

53. With regard to the removal of the alleged bodies of Marcelo Quiroga and Juan Carlos Flores Bedregal, it was decided to acquit some of the defendants<sup>64</sup> for insufficient evidence to declare them as guilty for the crimes of false testimony and cover-up. However, as to Rogelio Gómez Espinoza, Joaquín Quisbert Quiroga, Raúl Solano Medina, Adolfo Ustarez Ferreira, José Gregorio Loza Balza, René Javier Hinojoza Valdéz, and José Faustino Rico Toro, the judicial body determined that they were guilty of the aforementioned crimes, on the basis that, despite having proven that they participated in the events of the coup d'état, they "refused to provide further information about the other participants in the events, about the direct victimizers [(sic)] and about the whereabouts of the remains of the deceased leaders," since in the statements they gave, they "covered up information" and in "the statements they gave, they remained silent about the truth they fully or partially know." In addition, it indicated that Rogelio Gómez Espinoza and Joaquín Quisbert Quiroga, implicated in the

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<sup>58</sup> Cfr. Brief of lawyer Eulogia Pantoja Vacaflo on behalf of the Flores Bedregal family, dated August 22, 2006, presented on the same date (case file evidence, p. 8491). Previously, on April 27, 1999, the Third Magistrate's Court in the criminal proceeding "Public Prosecutor v. Franz Pizarro Solano et al." requested the Archives of Department II of the Army Joint Chiefs of Staff from the Armed Forces. Cfr. brief of April 27, 1999 of the Third Magistrate's Court (case file evidence, p. 8493). In response to said communication, on June 9, 1999, the Commander in Chief of the Armed Forces of the Nation stated: "I am sending you the documentation required by that Court in duly foliated pages (339); the same that by virtue of the provisions of Article 98 of Chapter V of the Organic Law of the Armed Forces of the Nation (LOFA), this documentation is SECRET and INVIOLABLE, and must be kept confidential; in this regard, thank you for returning it to my office." (bold and capital letters from the original). Cf. Communication from the Commander in Chief of the Armed Forces, Note Dept.II-Icia.EMG.Section-"A" No. 261/99 of June 9, 1999 (case file evidence, p. 8495).

<sup>59</sup> Cfr. Prosecution's View Order of the Second Criminal Party Court of August 23, 2006 (case file evidence, p. 8491).

<sup>60</sup> Cfr. Brief of the attorney Eulogia Pantoja Vacaflo on behalf of the Flores Bedregal family, of August 28, 2006, filed on the same date (case file evidence, p. 485 and 486).

<sup>61</sup> Cfr. Prosecution's View Order of the Second Circuit Criminal Court, of August 29, 2006 (case file evidence, p. 8501).

<sup>62</sup> Cfr. Brief of the attorney Eulogia Pantoja Vacaflo addressed to the Second Circuit Criminal Court of La Paz, on behalf of the Flores Bedregal family, received on September 23, 2006, dated September 22, 2006 (case file evidence, p. 299 and 300).

<sup>63</sup> Cfr. Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>64</sup> David Humberto Alarcón Romero, César Altamirano Lavadenz, Juan Gualberto Aquize Rada, Marcos Herminio Mena Vargas, Damián Gutiérrez Castro, and Sebastián Quispe Apaza were acquitted. Cf. Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

removal of the bodies and its transfer to the morgue, "committed a series of irregular acts" in the body removal. In that judgment, it was also determined, among the basic facts of the trial, that the defendants "participated [...] in a pact of silence, they do not provide any clarifying information, covering up the criminal acts and many others, giving completely false statements."<sup>65</sup>

54. With regard to the allegations formulated by the complainant in the criminal proceedings to have the accused tried for the crime of forced disappearance, the Second Criminal Court considered such a request inadmissible, since that crime was incorporated into the Bolivian legal system "by mandate of Law No. 3326 of January 18, 2006 [...] on this ground because of the non-retroactive nature of the Criminal Law, established by Constitutional Article 33 and the application of the Criminal Law in the time referred to in Article 4 of the Penal Code, which cannot be applicable to the defendants in the present case, who are being tried for acts dating back to 1980 and whose cause was initiated long before this crime was defined by law; moreover, the International Treaties and Conventions were ratified after the facts being judged." He added that "the crime of forced disappearance of persons is not part of the order of indictment, so the judge can hardly refer to that crime for which the defendants did not provide any defense."<sup>66</sup>

55. Some of the defendants<sup>67</sup> and the representatives of the Flores Bedregal and Quiroga Santa Cruz families appealed against the first instance order of December 12, 2007, as civil parties.<sup>68</sup> On August 22, 2008, the Third Criminal Chamber of the Superior Court of the Justice District of La Paz, by Resolution No. 103/2008 (hereinafter "Resolution No. 103/2008") confirmed the first instance ruling in the portion that convicted the defendants, and reversed it in the part that acquitted certain accused of cover-up.<sup>69</sup> The foregoing comes upon considering that the defendants did not denounce acts of which they were aware, such as the alleged removal of Juan Carlos Flores Bedregal's body.<sup>70</sup>

56. Resolution No. 103/2008 also rejected a request to annul all the proceedings in the case file, which was filed by the Superior District Prosecutor's Office of La Paz on April 9, 2008.<sup>71</sup> Faced with this request for annulment, Olga Flores filed a complaint before the Public Prosecutor against the Prosecutor who presented it,<sup>72</sup> and also requested that the Human Rights Commission of the Chamber of Deputies summon the Prosecutor to clarify the

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<sup>65</sup> Cfr. Order No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>66</sup> Cf. Resolution No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>67</sup> The appellant defendants include Rogelio Gómez Espinoza, Raúl Solano Medina, Marcos Herminio Mena Vargas, Juan Gualberto Aquize Rada, David Humberto Alarcón Romero, José Gregorio Loza Balsa, Adolfo Ustarez Ferreira, Joaquín Quisbert Quiroga, Raúl Hinojosa, Franz Pizarro Solano, José Luis Ormachea España, Sebastián Quispe Apaza, Damián Gutiérrez Castro, René Javier Hinojosa Valdez, and José Faustino Rico Toro. Cf. Resolution No. 103/2008 of the Third Criminal Chamber of the Superior Court of the Justice District of La Paz of August 22, 2008 (case of evidence, p. 333-355).

<sup>68</sup> The representatives of the Flores Bedregal family claimed that "the acquittal of some of the accused [was] illegal and unjust," on the grounds that an adequate assessment of their participation in the events was not made. Cf. Resolution No. 103/2008, of the Third Criminal Chamber of the Superior Court of the Judicial District of La Paz, *supra*.

<sup>69</sup> David Humberto Alarcón Romero, César Altamirano Lavadenz, Juan Gualberto Aquize Rada, and Marcos Herminio Mena Vargas were convicted of the crime of cover-up. Cf. Resolution No. 103/2008, of the Third Criminal Chamber of the Superior Court of the Judicial District of La Paz, *supra*.

<sup>70</sup> Cf. Resolution No. 103/2008 of the Third Criminal Chamber of the Superior Court of La Paz, *supra*.

<sup>71</sup> Cf. Resolution No. 103/2008 of the Third Criminal Chamber of the Superior Court of La Paz, *supra*.

<sup>72</sup> Cf. Appeal for serious and very serious misconduct, filed by Olga Flores Bedregal, against District Attorney Teresa Vera Loza, of May 8, 2008 (case file of evidence, p. 365-370).

situation.<sup>73</sup> As a result of the complaints, the Prosecutor was penalized for serious misconduct.<sup>74</sup>

57. On February 7, 2008, the Quiroga Santa Cruz family's lawyer reiterated the request for access to information and requested the "declassification of documents from the Second Department of the Joint Chiefs of Staff from June 1979 to December 1980."<sup>75</sup> On July 25, 2008, by official communication 496/2008, the President of the Third Criminal Chamber of the Superior Court of the Justice District of La Paz informed the Commander in Chief of the Armed Forces of the order to declassify the documents from June 1979 to December 1980, and to send legalized copies of the entries and exits to the Joint Chiefs of Staff of July 10-20, 1980.<sup>76</sup>

58. Olga Flores also filed an appeal for annulment and cassation against Resolution 103/2008 of the Third Criminal Chamber of the Superior Court of La Paz, considering "with regard to the appeal for annulment in that procedural forms have not been observed within the [...] proceedings [...], there has been no correct assessment of the evidence [...], there has not been a correct classification of the crimes, and the corresponding penalty has not been fixed [and neither] have overlapping offenses been applied against the convicts." The appeal in cassation was based on "an erroneous interpretation of the law [and] a violation of substantive law, in that it confirmed the ruling of the first instance regarding the crime of false testimony."<sup>77</sup> In addition, it argued that the crimes that gave rise to the proceedings of the "Public Prosecutor v. Franz Pizarro Solano et al." are crimes against humanity, and alleged disproportionality of the imposed penalties on the accused parties. In addition, some of the accused parties filed incidental appeals against the aforementioned resolution, in which they requested the dismissal or extinction of the criminal action, among other remedies or means of appeal.

59. On February 15, 2010, at the appeal stage, Olga Flores Bedregal reiterated her request for the declassification of the Armed Forces archives.<sup>78</sup> In addition, on March 12, 2010, the Appeals Prosecutor of the State Prosecutor General's Office requested that the Supreme Court of Justice grant the request for declassification of the files filed by Olga Flores.<sup>79</sup> This request was granted in Supreme Order No. 125 of the First Criminal Chamber of the Supreme Court of Justice (hereinafter also "Supreme Order No. 125") of April 1, 2010, in which it ordered the Joint Chiefs of Staff "to declassify the files existing in the Second Department of the Joint Chiefs of Staff, from June 1979 to December 1980, and the report of entries and exits to the Joint Chiefs of Staff from July 10 to 20, 1980," and send legalized copies to the same court.<sup>80</sup> On April 16, 2010, by Supreme Order No. 167 the same First Criminal Chamber of the Supreme Court of Justice (hereinafter also "Supreme Order No. 167") a declassification order was added at the request of Olga Flores to also include the documents related to the Armed

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<sup>73</sup> Cf. Brief to summon the District Attorney before the Human Rights Commission of the Chamber of Deputies, submitted by Olga Flores Bedregal, dated April 14, 2008 (case file of evidence, p. 372-374).

<sup>74</sup> Cf. T.N.D. Resolution No. 006/2010, issued by the National Disciplinary Tribunal on February 19, 2010 (case file of evidence, p. 396-399).

<sup>75</sup> Cf. Brief of presentation and request for new evidence, by attorney Ximena A. Prudencio Bilbao, representative of Marcelo Quiroga Santa Cruz's family, February 7, 2008 (case file of evidence, p. 8503-8508).

<sup>76</sup> Cf. Record 496/2008, signed by the President of the Third Criminal Chamber of the Superior Court of Justice of La Paz, of July 25, 2008 (case file of evidence, p. 488-498).

<sup>77</sup> Cf. Appeal for annulment and cassation pursued by Olga Beatriz Flores Bedregal, of January 24, 2009 (case file of evidence, p. 434-455).

<sup>78</sup> Cf. Brief of request for a reasoned order, presented by Olga Flores Bedregal, of February 15, 2010 (case file of evidence, p. 8524-8527), and Supreme Order No. 125 issued by the First Criminal Chamber of the Supreme Court of Justice of April 1, 2010 (case file of evidence, p. 524-527).

<sup>79</sup> Cf. Brief of the Appeals Prosecutor of the Office of the Prosecutor General of the Republic, of March 12, 2010 (case file of evidence, p. 561-564).

<sup>80</sup> Cf. Supreme Order No. 125 issued by the First Criminal Chamber of the Supreme Court of Justice, *supra*.

Forces Personnel Rank, which was in the Joint Chiefs of Staff from June 1979 to December 1980.<sup>81</sup>

60. On September 24, 2010, the Appeals Prosecutor of the State Public Prosecutor's Office requested the Chief of the Armed Forces of the State make the documents available that were already declassified and within its premises, in accordance with the orders of the jurisdictional body, as well as the Supreme Order of the First Criminal Chamber of the Supreme Court of Justice (hereinafter also "First Criminal Chamber of the Court"), which established that the documents were to be declassified and made known to the Public Prosecutor and the assigned investigators to continue with the investigation.<sup>82</sup> On September 28, 2010, the prosecutor carried out a visual inspection of the required documentation at the Joint Chiefs of Staff facilities. At that point, an inventory was performed of the reviewed documentation.<sup>83</sup> On October 19, 2010, the Commander in Chief of the Armed Forces sent documentation and a report stating that it complied with the requirements formulated in the Supreme Orders of the First Criminal Chamber of the Supreme Court of Justice and the resolutions issued by the Eighth Magistrate's Court on Precautionary Criminal Matters. In addition, it indicated that such documentation should remain confidential in accordance with the last part of Article 98 of the Organic Law of the Armed Forces<sup>84</sup>. The Flores Bedregal sisters did not have access to the information provided, nor did they participate in the inspection of the military archives.

61. On October 25, 2010, the First Criminal Chamber of the Court jointly resolved the appeal of Mrs. Olga Flores and the objections filed by the defendants.<sup>85</sup> The First Criminal Chamber of the Court declared the appeals of the defendants and the plaintiffs to be unfounded, which confirmed Resolution No. 103/2008. However, it partially upheld the objections founded with respect to the sentences against several of the defendants, extending the sentence for the crimes of false testimony from 2 to 3 years, and added two names that had been omitted from the review order.<sup>86</sup>

62. After the stage of appeal of the ordinary criminal process, on November 27, 2013, the Second Criminal Enforcement Court of the Departmental Court of Justice of La Paz issued warrants of arrest against Franz Pizarro Solano, José Luis Ormachea España, and Felipe Froilán Molina Bustamante.<sup>87</sup> On February 3, 2014, the Secretariat of the Department of Criminal Analysis and Intelligence reported that after the investigations to execute the

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<sup>81</sup> On April 14, 2010, Olga Flores Bedregal requested supplementation of Supreme Order No. 125, which led to access to classified documentation being ordered at the rank of the personnel of the Armed Forces. *Cf.* Brief of request for supplementation of Supreme Order, submitted by Olga Flores Bedregal, of April 14, 2010 (case file of evidence, p. 8535 and 8536), and Supreme Order No. 167 issued by the First Criminal Chamber of the Supreme Court of Justice of April 16, 2010 (case file of evidence, p. 566-567).

<sup>82</sup> *Cf.* Record of September 24, 2010 addressed to the Commander in Chief of the Armed Forces (case file of evidence, p. 569).

<sup>83</sup> *Cf.* Certificate of visual inspection and inventory of September 28, 2010 (case file of evidence, p. 571-573) and Report of the Senior Prosecutor to the Prosecutor General, on the proceedings of September 28, 2010, received on October 28, 2013, at Prosecutor General's office (case file of evidence, p. 8542-8544).

<sup>84</sup> *Cf.* Communication from the Commander in Chief of the Armed Forces of the Joint Chiefs of Staff, addressed to the Appeals Prosecutor of the Prosecutor General's Office, of October 19, 2010 (case file of evidence, p. 575-576).

<sup>85</sup> César Altamirano Lavadenz, Rogelio Gómez Espinoza, Faustino Rico Toro, Marcos Herminio Mena Vargas, Felipe Froilán Molina Bustamante, David Humberto Alarcón Romero, Gregorio Loza Balsa, and Gerardo Gianni Prado Herrera; as well as María Soledad Quiroga Trigo, as a family member constituted as a civil party offended in the criminal proceedings. *Cf.* Supreme Order No. 504 of the First Criminal Chamber of the Court, of October 25, 2010 (case file of evidence, p. 457-469).

<sup>86</sup> The names of Damián Gutiérrez Castro and Sebastián Quispe Apaza, who were said to have been "omitted without justification," were included in the sentence. *Cf.* Supreme Order No. 504 of the First Criminal Chamber, *supra*.

<sup>87</sup> *Cf.* Warrants of arrest issued by the Second Court of Criminal Judgment of the Departmental Court of Justice of La Paz, of November 27, 2013, against Franz Pizarro Solano, José Luis Ormachea España, and Felipe Froilán Molina Bustamante (case file of evidence, p. 471-475).

warrant of arrest were carried out<sup>88</sup>: (a) it had no information on Franz Pizarro Solano; (b) José Luis Ormachea España is registered as deceased, and (c) Felipe Froilán Molina Bustamante was finally arrested in 2016, almost three years after the arrest warrant was issued, and is currently serving his sentence in the San Pedro de Chonchocoro prison.

## **C.2. Administrative procedure pursuant to Ministerial Resolution No. 316/09**

63. On May 19, 2009, the Ministry of Defense issued Ministerial Resolution No. 316/09 authorizing the Commander in Chief of the Armed Forces to facilitate access to archives, public records, and existing documents of the Armed Forces of the State<sup>89</sup> for family members and victims of military dictatorships who make such requests and demonstrate a legitimate interest. On June 1, 2009, based on this Resolution, Verónica Flores submitted a request for access to information to the Armed Forces Commander in Chief.<sup>90</sup> On June 22, 2009, the Commander in Chief of the Armed Forces responded to the request demanding compliance with the following requirements and proceedings: "1. Demonstrate legitimate interest in the required information; 2. Specify dates and data of the required information; 3. Ways in which the secrecy of the information provided will be guaranteed; 4. Comply with the requirements and formalities of law before the competent authority; 5. The reasoned order issued by the competent authority [should have been] addressed to the Captain General of the Armed Forces; 6. The Captain General of the Armed Forces, exercising its legitimate powers and in coordination with the Commander in Chief of the Armed Forces, shall consider whether the case merits, in accordance with the foregoing, granting the request of the competent judge."<sup>91</sup>

64. Because these requirements were not contemplated in Ministerial Resolution No. 316/09, on June 29, 2009, the two sisters, Verónica and Olga Flores Bedregal, submitted a request for clarification of the procedures for access to information.<sup>92</sup> On July 23, 2009, the Commander in Chief of the Armed Forces acknowledged receipt of the aforementioned request, and pointed out that it would "provide a response as soon as possible."<sup>93</sup>

65. In view of the authorities' silence, on December 10, 2009, the Flores Bedregal sisters filed an action for constitutional protection, on the grounds that the demands of the Commander in Chief of the Armed Forces were contrary to the right of access to information in light of Ministerial Resolution No. 316/09; the violation of the right of petition and legal certainty due after calling into question the validity and scope of the ministerial resolution and other relevant rules.<sup>94</sup> On December 12, 2009, the Second Criminal Chamber of the Superior Court of the District of La Paz declared the action inadmissible *in limine*, considering that it was raised directly, without considering the subsidiary nature of the amparo, and

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<sup>88</sup> Cf. Report No. 04/2014 of the Secretariat of the Department of Criminal Analysis and Intelligence, of February 3, 2014 (case file of evidence, p. 477-478).

<sup>89</sup> Cf. Ministerial Resolution No. 316/09, issued by the Ministry of Defense, of May 19, 2009 (case of file evidence, p. 531-533).

<sup>90</sup> Cf. Brief of Verónica Flores Bedregal of May 28, 2009, filed on June 1, 2009 (case file of evidence, p. 529).

<sup>91</sup> Cf. No. 341/09, Communication of the Commander in Chief of the Armed Forces of the Joint Chiefs of Staff, addressed to Verónica Flores Bedregal, of June 5, 2009, received on June 22, 2009 (case file of evidence, p. 535 and 536).

<sup>92</sup> Cf. Brief of sisters Verónica and Olga Flores Bedregal, of June 25, 2009, filed on June 29, 2009 (case file of evidence, p. 538).

<sup>93</sup> Cf. No. 397/09, Communication of the Commander in Chief of the Armed Forces of the Joint Chiefs of Staff, addressed to Verónica and Olga Flores Bedregal, dated July 6, 2009, received on July 23, 2009 (case file of evidence, p. 539).

<sup>94</sup> Cf. Constitutional action of amparo filed by the sisters Verónica and Olga Flores Bedregal, of November 10, 2009, submitted on December 10, 2009 (case file of evidence, p. 541-556).

deemed that the applicants should "comply with the procedure indicated by the appointed authority" of the Armed Forces.<sup>95</sup>

66. Meanwhile, the Ombudsman, through Ombudsman's Resolution No. RD/00016/LPZ/2010 of February 22, 2010 – issued in response to complaint No. 2041-LPZ-2009 of Olga and Verónica Flores Bedregal against the Commander General of the Armed Forces—, decided:

FIRST: To recommend to the Commander in Chief of the Armed Forces of the State to immediately have access to the files, public records, and documents existing in the institution under its charge, to Carlos Flores Bedregal's family and other disappeared persons, in compliance with Ministerial Resolution No. 0316 and other legal instruments.

SECOND: To remind the Commander in Chief of the Armed Forces of the State of his legal duty of respecting the right of access to citizen information, the right to truth and non-impunity, and to comply with the regulations indicated in this Ombudsman's Resolution.

THIRD: It is suggested that the Minister of Defense of the Plurinational State adopt specific measures to comply with Ministerial Resolution No. 0316 by the Armed Forces of the State, and allow the petitioners to immediately access to the files, public records, and documents of the military institution.<sup>96</sup>

67. There is no record in the file that actions have been taken pursuant to Ombudsman Resolution No. RD/00016/LPZ/2010.

#### **D. Attempts to identify remains as part of the search for Juan Carlos Flores Bedregal**

68. After the events of July 1980, the Flores Bedregal sisters received "many versions of the apparent fate of Juan Carlos and where his remains may be, the vast majority with little or no credibility."<sup>97</sup> Three exhumations were carried out on two bodies that were buried in clandestine cemeteries.<sup>98</sup> The first exhumation was carried out in February 1983 on an "almost mummified body [...] that must have had a height of 1.50 m" and the forensic doctor determined that it was not Juan Carlos Flores Bedregal. A second exhumation was called for in March 1983, but it was not carried out. In April 1983, a body was exhumed. It had neither feet nor hands, and, as recorded in its forensic certification, the individual "was neither tall, nor short, nor fat, nor skinny." By order of the Supreme Court of Justice, the remains were exhumed again in 1992, and examined by members of the Argentine Forensic Anthropology Team who determined that the remains were not those of Juan Carlos Flores Bedregal.<sup>99</sup> The Flores Bedregal sisters were present in all of these procedures.

69. On September 8, 2021, in criminal proceedings No. 6441/09 before the Eighth Magistrate's Court on Precautionary Criminal Matters – prompted by the Public Prosecutor at the request of the victims of Luis García Meza Tejada's dictatorship – the Prosecutor in charge made "a complementary computer statement to [MFC] known as "the gravedigger" to obtain

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<sup>95</sup> Cf. Resolution No. 88/2009 of the Second Criminal Chamber of the Superior Court of the District of La Paz, of December 12, 2009 (case file of evidence, p. 558-559).

<sup>96</sup> Ombudsman Resolution No. RD/00016/LPZ/2010 of February 22, 2010 (case file of evidence, p. 304-310)

<sup>97</sup> Cf. Statement by Veronica Flores Bedregal, *supra*.

<sup>98</sup> Cf. Communication from the Flores Bedregal sisters to the Inter-American Commission, June 30, 2008 (case file of evidence, p. 626-633); Statements by Lilian Teresa and Verónica Flores Bedregal, *supra*, and Statement by Olga Flores Bedregal, *supra*.

<sup>99</sup> Cf. Statements by Lilian Teresa, Veronica, and Olga, all Flores Bedregal, *supra*.

more information about the whereabouts of the remains of Flores Bedregal and other victims of the military dictatorship." In addition, two technical visual inspections were carried out on December 16 and 17, 2021, at the Provincial Bus Station of El Alto city and at the General Cemetery of La Paz, respectively, as possible burial sites of victims of the military dictatorship, including those who may have been transferred from another Department.<sup>100</sup> No other actions have been carried out to determine the location of Juan Carlos Flores Bedregal.

## **VII MERITS**

70. The Court now proceeds to examine the merits, in the following order: the alleged disappearance of Juan Carlos Flores Bedregal and the rights to juridical personality, life, humane treatment, and personal liberty enshrined in Articles 3, 4, 5, and 7 of the American Convention, in relation to the obligation to respect and guarantee rights and Articles I(a) and (b) of the ICPPT; the alleged violations of judicial guarantees and judicial protection enshrined in Articles 8(1), 25(1), and 1(1) of the American Convention; the alleged violation of the right of access to information enshrined in Article 13, in relation to Articles 1(1) and 2 of the American Convention; and the alleged violation of humane treatment of Mr. Flores Bedregal's relatives, enshrined in article 5 of the Convention.

### **VII-I RIGHTS TO JURIDICAL PERSONALITY , LIFE, HUMANE TREATMENT AND PERSONAL LIBERTY, IN RELATION TO THE OBLIGATION TO RESPECT AND GUARANTEE THE RIGHTS<sup>101</sup> OF THE AMERICAN CONVENTION AND ARTICLE I.a) OF THE ICPPT**

71. Pursuant to the provisions of Chapter IV regarding its *ratione temporis* jurisdiction in the instant case, the Court will analyze whether the events that occurred prior to the acceptance of its contentious jurisdiction—that is, the illegal detention and acts of violence of July 17, 1980, that affected Juan Carlos Flores Bedregal—are of a continuous nature and, therefore, constitute violations of the rights to recognition of juridical personality, life, humane treatment, and personal liberty enshrined in Articles 3, 4, 5, and 7 of the American Convention, in relation to Article I(a) and I.b) of the ICPPT.

#### **A. Arguments of the Commission and the parties**

72. The **Commission** alleged that the State violated Articles 3, 4.1, 5.1, and 5.2, 7.1, 8.1, and 25.1 of the American Convention, in relation to Article 1.1 of the same instrument, and Articles I(a) and I(b) of the ICPPT, to the detriment of Juan Carlos Flores Bedregal. It maintained that there is no dispute as to the participation of state agents in the events related to the seizure of the COB, nor that Mr. Flores Bedregal was one of the victims of the events. Therefore, the Commission approved the first two elements of the forced disappearance. Regarding the third element, the Commission pointed out that to the present date, what happened to Mr. Flores Bedregal has not been fully clarified, nor have his remains been located. It pointed out that the conviction issued by the Second Criminal Court recognized the serious obstacles to the clarification of the facts due to the "pact of silence" of the alleged parties involved; and that the same ruling shows the contradictions existing in the statements of the accused parties as to the final destination of the bodies of Marcelo Quiroga and Juan Carlos Flores Bedregal. The foregoing evidences the state agents' intention to remove evidence and to hide what happened.

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<sup>100</sup> As indicated by the State in its final written arguments, and the Eighth Magistrate's Precautionary Criminal Court, within process No. 6441/09 pursued by ex officio by the Public Prosecutor against Luis Arce Gómez et al. for the crime of forced disappearance of persons, Report of the Specialized Attorney's Office for crimes of human trafficking and migrant smuggling of La Paz, February 3, 2022 (case file of evidence, p. 9284-9286).

<sup>101</sup> Articles 3, 4, 5, 7, and 1.1 of the American Convention, respectively.

73. The **representatives** generally agreed with the Commission's view. He argued that Mr. Flores Bedregal was arrested and forced to go down to the street, at which time state agents had effective control over the alleged victim; and that his death was never duly corroborated; and that the fact that, days after the assault, photographs of political leader Marcelo Quiroga have come to light with signs of torture, which make it possible to infer that Mr. Flores Bedregal could have been transferred to the Joint Chiefs of Staff and suffered a similar fate. In addition, he claimed that there is a persistent refusal to recognize forced disappearance. He alleged that those involved have not yet revealed what happened, and state authorities refuse to provide information and criticize the alleged victim's relatives for seeking out the truth, accusing them of acting with political biases.

74. The **State** reiterated the arguments presented in the *ratione temporis* objection and alleged that, in the instant case, there had been a deprivation of life and not forced disappearance. Therefore, the rights to juridical personality, life, humane treatment, and personal liberty provided in Articles 3, 4, 5 and 7 of the American Convention do not constitute a violation. To justify its position, it argued that the immediate death of Juan Carlos Flores Bedregal has been fully proven, and this is why it cannot be considered that he was a victim of forced disappearance. With regard to the obligation to make a guarantee, it stated that it fulfilled its duty to investigate, since the facts relating to the disappearance of the remains of the alleged victim from the Clinical Hospital (Hospital de Clínicas) were included in procedure No. 6441/09.

## **B. Considerations of the Court**

### **B.1. Forced disappearance of persons**

75. As can be seen in the Court's consistent case law, the forced disappearance of persons constitutes a serious violation of human rights<sup>102</sup> consisting of three concurrent elements: (a) deprivation of liberty; (b) the direct intervention of state agents or their acquiescence, and (c) the refusal to acknowledge the detention and to reveal the fate or the whereabouts of the person in question.<sup>103</sup> The Court has reiterated the permanent nature of the acts that constitute forced disappearance while the victims' whereabouts remain unknown or until their remains are found, and the multiple violations of the rights recognized in the American Convention, giving States the correlative duty to investigate such acts and, eventually, punish those responsible,<sup>104</sup> pursuant to the obligations derived from that Convention and, in particular, from articles I,II and III of the ICFDP, the latter of which expressly establishes that the crime of forced disappearance will be considered as continuous or permanent until the fate or whereabouts of the victim are determined. The characterization of forced disappearance as a permanent and multiple violation of human rights<sup>105</sup> is consistent with the

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<sup>102</sup> Cf. *Case of Goiburú et al. v. Paraguay. Merits, Reparations, and Costs*. Judgment of September 22, 2006. Series C No. 153, para. 114, and *Case of Maidanik et al. v. Uruguay Merits and Reparations*. Judgment of November 15, 2021. Series C No. 444, para. 112.

<sup>103</sup> Cf. *Case of Gómez Palomino v. Peru. Merits, Reparations, and Costs*. Judgment of November 26, 2002. Series C No. 136, para. 97, and *Case of Movilla Galarcio et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of June 22, 2022. Series C No. 452, para. 119.

<sup>104</sup> Cf. *inter alia*, *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, paras. 155-157, and *Case of the Village of Los Josefinos Massacre v. Guatemala. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 3, 2021. Series C No. 442, para. 69.

<sup>105</sup> Cf. *Case of Maidanik et al. v. Paraguay, supra*, paras. 113 and 114. This characterization derives not only from the definition in Article III of the ICCPF, but also from different international instruments. See, UN, *Declaration on the Protection of All Persons from Enforced disappearance*, United Nations General Assembly. Resolution 47/133, 18 December 1992, art. 1, 4 and 17, and UN. *International Convention for the Protection of All Persons from Enforced Disappearance*, adopted by the United Nations General Assembly on December 20, 2006, arts. 2 and 8.

standards of the European Court of Human Rights,<sup>106</sup> and the decisions of international bodies<sup>107</sup> and high courts of Latin America.<sup>108</sup>

76. Within the framework of the United Nations General Assembly, the international community has urged States to search for the disappeared persons since its first resolutions on the subject in the 70s.<sup>109</sup> The General Assembly of the Organization of American States has done the same in its resolutions.<sup>110</sup> This concern has been reflected in numerous instruments that include the "Declaration on the Protection of all Persons from Enforced Disappearance"<sup>111</sup>; the "Inter-American Convention on The Forced Disappearance of Persons"<sup>112</sup>; the "International Convention for the Protection of All Persons from Enforced Disappearance"<sup>113</sup>; the "Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity"<sup>114</sup>; the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law";<sup>115</sup> the "Global Consensus on Principles and Minimum Standards on Psychosocial Work in Search and Forensic

<sup>106</sup> Cf. ECHR, *Case of Kurt v. Turkey*, No. 15/1997/799/1002. Judgment of May 25, 1998, para. 124; *Case of Cyprus v. Turkey* [GC], No. 25781/94. Judgment of May 10, 2001, paras. 132-134 and 147; *Case of Varnava et al. v. Turkey* [GC], No. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90. Judgment of September 18, 2009, paras. 111-113, 117, 118, 133, 138 and 145; *Case of El-Masri v. Former Yugoslav Republic of Macedonia* [GC], No. 39630/09. Judgment of December 13, 2012, paras. 240-241, and *Case of Aslakhanova et al. v. Russia*, No. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10. Judgment of December 18, 2012, paras. 122, 131 and 132.

<sup>107</sup> Cf. Human Rights Commission, Report of the Working Group on Enforced or Involuntary Disappearances, General Comment on Article 4 of the Declaration on the Protection of All Persons from Enforced disappearance, January 15, 1996, U.N. Doc. E/CN.4/1996/38, para. 55; Human Rights Commission, Report submitted by Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances, pursuant to paragraph 11 of Commission resolution 2001/46. U.N. Doc. E/CN.4/2002/71, January 8, 2002, paras. 84 and 89; Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, General Comment on forced disappearance as a Continuous Crime, U.N. Doc. A/HRC/16/48, January 26, 2011, para. 39. Human Rights Committee, *inter alia*, Gyan Devi Bolakhe v. Nepal, U.N. Doc. CCPR/C/123/D/2658/2015, Communication No. 2658/2015, August 8, 2018, paras. 7.7, 7.8, 7.15 and 7.18; Tikanath and Ramhari Kandel v. Nepal, U.N. Doc. CCPR/C/126/D/2560/2015, Communication No. 2560/2015, August 16, 2019, paras. 7.7, 7.8 and 7.13; Midiam Iricelda Valdez Cantú and María Hortensia Rivas Rodríguez v. Mexico, U.N. Doc. CCPR/C/127/D/2766/2016, Communication No. 2766/2016, December 23, 2019, paras. 12.5, 12.7, 12.8, and 12.10, and Malika and Merouane Bendjael v. Algeria, U.N. Doc. CCPR/C/128/D/2893/2016, Communication No. 2893/2016, November 3, 2020, paras. 8.4 to 8.6 and 8.12. Cf. *Case of the Village of Los Josefinos Massacre v. Guatemala*, *supra*, para. 69.

<sup>108</sup> Cf., *inter alia*, Supreme Court of Justice of the Argentine Nation, Judgment of August 31, 1999, case "Tarnopolsky, Daniel c/ Estado Nacional et al. s/ proceso de conocimiento," and Judgment of May 3, 2017, case No. 1574/2014/RH1, "Bignone, Reynaldo Benito Antonio et al./ recurso extraordinario"; Plurinational Constitutional Court of Bolivia, Constitutional Judgment No. 1190/01-R of November 12, 2001; Constitutional Court of the Republic of Colombia, Decision C-580/02 of July 31, 2002; Supreme Court of Justice of the Nation of Mexico, September 1, 2004, Thesis: P./J. 87/2004 (forced disappearance of persons. The time frame for calculating its statute of limitations does not start until the victim appears or their whereabouts are established); Constitutional Court of Peru, Judgment of March 18, 2004, Exp. No. 2488-2002-HC/TC, and Constitutional Court of Guatemala, Judgment of July 7, 2009, file 929-2008.

<sup>109</sup> Cf. GA Res No. 33/173 of December 20, 1978 and subsequent ones.

<sup>110</sup> Cf. Resolutions GA/RES 2231 (XXXVI-O/06), GA/RES 2513 (XXXIX-O/09), GA/RES. GA/RES. 2864 (XLIV-O/14), GA/RES. GA/RES. 2928 (XLVIII-O/18) of The General Assembly of the Organization of American States.

<sup>111</sup> Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly of the United Nations in its resolution 47/133 of December 18, 1992, articles 9, 10 and 13.

<sup>112</sup> Inter-American Convention on Forced Disappearance of Persons, adopted at Belém do Pará, Brazil on June 9, 1994, at the twenty-fourth regular session of the General Assembly, Articles X, XI, and XII.

<sup>113</sup> International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly of the United Nations on December 20, 2006, articles 12, 15, 17, 18, 19, 20 and 24.

<sup>114</sup> United Nations Commission on Human Rights, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, February 8, 2005, E/CN.4/2005/102/Add. 1. Principles 2, 3 and 4.

<sup>115</sup> United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, December 16, 2005, Resolution 60/147, Articles 22 and 24.

Investigations for Cases of Forced Disappearances, Arbitrary or Extrajudicial Executions,"<sup>116</sup> and the "Minnesota Protocol on the Investigation of Potentially Unlawful Death."<sup>117</sup>

77. The obligation to search for disappeared persons is not limited to situations of forced disappearance. Even in the event of the death of the disappeared person, the State has the obligation to adopt the necessary measures to clarify and determine their whereabouts. This obligation is regardless of whether the disappearance of the person is the result of the wrongful act of forced disappearance or of other circumstances such as their death in a military operation, errors in the delivery of the remains, or other reasons.<sup>118</sup> In cases in which a person has been deprived of their life, and their relatives do not know the circumstance of their death and the exact place where their remains are located, the State has the obligation to clarify the circumstances of the death and the location of the body.<sup>119</sup>

78. The obligation to search for disappeared persons is independent and is neither subordinate nor conditioned to the obligation to investigate the crime of forced disappearance and to prosecute and punish its perpetrators. It persists regardless of the results of the criminal investigation and the identification and prosecution of those responsible. The logic of criminal proceedings is based on proof of the materiality of the crime with a view to prosecuting those responsible. Its nature is different from that of locating the remains of the disappeared person. That is why the "Guiding Principles for the Search for Disappeared Persons" provide that the criminal investigation or the eventual condemnatory or acquittal judgment should not be an obstacle to continuing with the search activities nor can they be invoked to suspend them.<sup>120</sup> Conversely, the obligation to search for disappeared persons does not exonerate the State from its obligation to investigate the crime of forced disappearance or to prosecute and convict its perpetrators and participants. Given the seriousness of this crime, the prohibition of the forced disappearance of persons and the corresponding obligation to investigate and punish those responsible has attained the status of *jus cogens*.<sup>121</sup>

79. Consistent with this background, the Court must analyze the plurality of conducts that may come together in the commission of the crime of forced disappearance with a comprehensive approach that contemplates the possible continuous violation of legal rights protected by the Convention, in particular, the rights to juridical personality, life, humane treatment and personal liberty, enshrined in Articles 3, 4, 5, and 7.<sup>122</sup> In view of the above, consideration of the forced disappearances alleged in this case must take into account a series

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<sup>116</sup> International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in Cases of Forced Disappearances, Arbitrary or Extrajudicial Executions. Guatemala: I World Congress on Psychosocial Work on Forced Disappearance, Exhumation Processes, Justice and Truth, Antigua, Guatemala. Recommended by the General Assembly of the Organization of American States, through Resolutions GA/RES. 2717 (XLII-O/12) of June 4, 2012 and GA/RES. 2794 (XLIII-O/13) of June 5, 2013.

<sup>117</sup> Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), Office of the United Nations High Commissioner for Human Rights, New York and Geneva, 2017.

<sup>118</sup> *Case of Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 14, 2014. Series C No. 287, para. 478.

<sup>119</sup> UN Human Rights Committee, *Case of Sankara et al. v. Burkina Fasso*, Communication No., Decision of March 26, 2006, para. 12.2.

<sup>120</sup> United Nations Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, adopted on April 16, 2019, at session no. 16, principle 13.4.

<sup>121</sup> *Cf. Case of Goiburú et al. v. Paraguay, supra*, para. 84 and 131; *Case of Maidanik et al. v. Uruguay, supra*, para. 116, and expert opinion of Federico Andreu Guzmán rendered by affidavit on March 6, 2020 (case file of evidence, p. 8983-9012).

<sup>122</sup> *Cf., Inter alia, Case of Velásquez Rodríguez v. Honduras. Merits, supra*, paras. 150, 155-158, 186 and 187; *Case of Godínez Cruz v. Honduras, supra*, paras. 158, 163-167, 196, 197; *Case of Anzualdo Castro v. Peru. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of September 22, 2009. Series C No. 202, paras. 68-103; *Case of Isaza Uribe et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of November 20, 2018. Series C No. 363, para. 81, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 70.

of factors and the context in which they occurred, since only then will the legal analysis be consistent with the complex and continuous nature of this phenomenon<sup>123</sup>.

## B.2. Examination of the case

80. It is undisputed that on July 17, 1980, Mr. Flores Bedregal was at the COB premises in his capacity as a national deputy (congressman), during the CONADE meeting, in order to plan and prepare actions to deal with a possible coup d'état by the Armed Forces.<sup>124</sup> Likewise, the "Hornet" military operation, which was the basis for the coup d'état was established, included the violent takeover of the COB. Those present at the meeting were forced to descend the stairs and leave the place with their hands up, including Juan Carlos Flores Bedregal, who was hit by a burst of gunfire.<sup>125</sup> The representative argued that they have received no actual news of Mr. Flores Bedregal's whereabouts or the location of his remains since then. The State argued that the alleged victim's death had been verified.

81. The Court notes that there is a document recorded as an act of removal of the body of Mr. Flores Bedregal (*supra* citation at footnote 41). Before proceeding to analyze said document, the Court will refer to the principles to be observed in the investigation of potentially unlawful death. These include the duty to carry out minimum and indispensable proceedings to preserve the crime scene and the chain of custody of the evidence on which the success of the investigation depends.<sup>126</sup> As for legal medical autopsies, the Court recalls that their purpose, at the very least, is to collect information to identify the deceased person and the time, date, cause, and manner of death.<sup>127</sup> Likewise, the body should be properly photographed, with x-rays taken of the body, its bag or material in which it is wrapped, and after undressing, any injuries must be documented.<sup>128</sup> According to this criterion, the Court has specifically stated that the parties who conduct an investigation of this type should try, at minimum, *inter alia*: (i) to identify the victim; (ii) to recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible; (iii) to identify possible witnesses and obtain statements from them concerning the death; (iv) to determine the cause, manner, location, and time of death, as well as any pattern or practice that may have brought about the death, and (v) to distinguish between natural death, accidental death, suicide, and homicide. Additionally, the scene of the crime must be

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<sup>123</sup> Cf. *Case of Goiburú et al. Vs. Paraguay, supra*, para. 85, and *Case of Maidanik et al. v. Uruguay, supra*, para. 117.

<sup>124</sup> OEA, Report on the Situation of Human Rights in the Republic of Bolivia, OEA/Ser.L/V/II.53. Chapter IV. Political rights, subparagraph D, para. 2, and *supra* paras. 40 and 41 of this Judgment.

<sup>125</sup> Regarding what happened to Juan Carlos Flores Bedregal on the day of the facts, Eduardo Germán Domínguez Bohrt stated in his testimony that he was going down the stairs with "his gaze directed towards the sea"; and that Juan Carlos was in front of him and received a burst of gunfire. In his statement he specifies that "his gaze directed towards the sea" means "to be looking down." Statement of Eduardo Germán Domínguez Bohrt of May 13, 2019, *supra*, and statement of Eduardo Germán Domínguez Bohrt before the Court, *supra*.

<sup>126</sup> Cf. *Case of Juan Humberto Sánchez v. Honduras. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of November 24, 2009. Series C No. 99, para. 127; *Case of Velásquez Paiz et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 19, 2015. Series C No. 307, para. 150; *Case of Ruiz Fuentes et al. v. Guatemala. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of October 10, 2019. Series C No. 384, para. 180, and *Case of Olivares Muñoz et al. v. Venezuela. Merits, Reparations, and Costs*. Judgment of November 10, 2020. Series C No. 415, footnote 154.

<sup>127</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico Preliminary Objection, Merits, Reparations, and Costs*. Judgment of November 26, 2002. Series C No. 205, para. 310; *Case of Velásquez Paiz et al. v. Guatemala, supra*, para. 151, citing the *United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol)*, *supra*; *Case of Human Rights Defender et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 28, 2014. Series C No. 283, para. 207; *Case of Velásquez Paiz et al. v. Guatemala, supra*, para. 153, and *Case of Muñoz et al. v. Venezuela, supra*, para. 126.

<sup>128</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico, supra*, para. 310, and *Case of Olivares Muñoz et al. v. Venezuela, supra*, para. 126.

investigated thoroughly; autopsies must be performed, and human remains rigorously examined by competent professionals using the most appropriate procedures.<sup>129</sup>

82. An analysis of the body removal form in the instant case shows that: (i) no special investigator or prosecutor was involved; (ii) the body was removed by police personnel allegedly stationed at the scene; (iii) no forensic doctor or laboratory personnel were involved; (iv) no photographic sequence was made; and (v) the report is adulterated since erasures can be seen in the points relating to "return to the city" and "arrival at the morgue." Additionally, the observations contained in the same record indicate that "a legal lifting [of the body] was not carried out."<sup>130</sup> In short, as it can be seen from this document, the body was not subjected to forensic medical examinations to determine the causes and circumstances of death; and it was recorded as the body of the alleged victim without being identified by his relatives, acquaintances, or witnesses, and without having applied other forensic methods of identification (particular characteristics, dental records, DNA tests, etc.). These deficiencies could not be remedied since the body referred to in the document was allegedly removed from the morgue facilities where it was taken to by the police, which calls into question compliance with the obligations of the State as to chain of custody.<sup>131</sup> Consequently, the documentation presented as alleged evidence of the removal of the body of Juan Carlos Flores Bedregal does not meet international standards for the clarification of potentially unlawful death.<sup>132</sup> Based on the above – given the acts and omissions of state agents – there is no certainty that Mr. Flores Bedregal's body was removed.

83. In view of the foregoing, the Court will now analyze the elements to be taken into account in determining the principle of execution of forced disappearance, namely: (i) the participation or acquiescence of State agents in the events; (ii) deprivation of liberty; (iii) the refusal to acknowledge the detention, provide information, or reveal the victim's fate or whereabouts.

84. With regard to the participation of State agents or individuals acting with the acquiescence of State agents, it has already been established that the seizure of the COB, during which Juan Carlos Flores Bedregal was arrested, was part of the actions perpetrated in the context of the coup d'état promoted by Luis García Meza. This was corroborated both in the judgments of the Suits for Damages<sup>133</sup>, and in the criminal process "Public Prosecutor v/ Franz Pizarro Solano et al."<sup>134</sup> Consequently, the participation of State agents and paramilitary groups that acted with State acquiescence in the seizure of the COB and in the facts of this case has been confirmed.

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<sup>129</sup> Cf. *Case of Juan Humberto Sánchez v. Honduras*, *supra*, para. 127; and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 121, and Minnesota Protocol on the Investigation of Potentially Unlawful Death, *supra*.

<sup>130</sup> Cf. Body removal form, Form D4, *supra*.

<sup>131</sup> Rogelio Gómez Espinoza testified before the domestic courts that the body was deposited in the morgue of the Clinical Hospital (Hospital de Clínicas) and half an hour later he found out that it had been stolen. These statements were controversial among the representatives, with the arguments that these police officers were subsequently convicted of the crimes of cover-up and false testimony. Cf. Resolution No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

<sup>132</sup> International standards indicate that the crime scene and the area adjacent to the body must be secured and that only the investigator and their team are to be admitted; it must be kept in custody and avoid any contamination; it must be photographed before and after the removal of the body; blood samples, hair, fibers, threads or other evidence must be collected and preserved; the area should be examined for shoe prints or anything else of an evidentiary nature; and a report must be prepared detailing the observations, the actions of the researchers and the collected evidence. The body must be handled by professionals who are trained to examine and move it properly. See Minnesota Protocol on the Investigations of any potentially unlawful death, *supra*.

<sup>133</sup> Cf. Judgment of the Supreme Court of Justice of the Nation of April 15, 1993, *supra*.

<sup>134</sup> Resolution No. 129/2007 of the Second Circuit Criminal Court, of December 12, 2007, *supra*.

85. With regard to the deprivation of liberty, in the instant case, it has been proved that Mr. Flores Bedregal was arrested<sup>135</sup> by State agents or by persons who acted with the acquiescence of State agents at the time of the seizure of the COB building in the context of the coup d'état. Consequently, the deprivation of liberty is deemed to be proven.

86. With respect to the refusal to acknowledge the arrest, provide information, or reveal the fate or whereabouts of the victim, this Court observes that the State agents involved in the alleged removal of the body refused to provide information on the whereabouts of Mr. Flores Bedregal or his remains. This was corroborated by the judgement of December 12, 2007, which found that the defendants had made false statements pursuant to a pact of silence on the whereabouts of the alleged victim (*supra* para. 53). Based on these determinations and the practices of State agents and paramilitary groups in the context of the 1980 coup d'état (*supra* paras. 40 and 44), this Court considers the last constituent element of forced disappearance to be proven.

87. Consequently, the Court concludes that Mr. Flores Bedregal was deprived of his liberty by action and/or with the acquiescence of State agents and, to date, accurate information about his whereabouts or the location of his remains has not been provided. Therefore, the State is responsible for the forced disappearance of Juan Carlos Flores Bedregal and for the continued violation of the rights to juridical personality, life, humane treatment, and personal liberty enshrined, respectively, in Articles 3, 4.1, 5.1, 5.2, and 7.1 of the American Convention, in relation to the provisions of article 1.1 of the same instrument, as well as article I, subparagraph (a) of the ICPPT, which prohibits the forced disappearance of persons by the States.

88. With regard to the alleged violation of Articles 16 and 23 of the American Convention, alleged by the Commission and the representatives, due to Mr. Flores Bedregal being an alternate deputy (congressman), this Court has pointed out that "the fact that a forced disappearance was perpetrated to impede the legitimate exercise of a right does not mean that the consequent violation of this right has a permanent nature."<sup>136</sup> Consequently, the Court considers that the State is not responsible for the violation of the right of association and political rights, enshrined in Articles 16 and 23 of the American Convention, to the detriment of Juan Carlos Flores Bedregal.

## **VII-II RIGHTS TO JUDICIAL GUARANTEES AND JUDICIAL PROTECTION IN RELATION TO THE DUTY TO RESPECT AND GUARANTEE RIGHTS<sup>137</sup> AND ARTICLES I.(b) AND III OF THE ICPPT**

89. In this chapter, the Court will specifically examine the alleged violation of Articles 8(1) and 25(1) of the American Convention on account of the alleged deficiencies in the criminal process entitled "Public Ministry v. Franz Pizarro Solano et al." The Court will make its analysis within the framework of its temporal jurisdiction in this case. It should be noted that the allegations related to the access of the Flores Bedregal sisters to the documents and records of the Armed Forces will be addressed in a separate chapter of this Judgment.

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<sup>135</sup> The Court notes that, in order to characterize forced disappearance, the determination of deprivation of liberty is not limited to cases of unlawful deprivation of liberty. See *Case of Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs*, Judgment of November 28, 2005, Series C No. 138, para. 105, *Case of Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia, supra*, para. 232.

<sup>136</sup> Cf. *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. 193.

<sup>137</sup> Articles 8.1, 25.1, and 1.1 of the American Convention, respectively.

90. Meanwhile, this Court is aware of criminal proceeding No. 6441/09, initiated by the Public Prosecutor's Office and tried at the Eighth Magistrate's Court on Precautionary Criminal Matters, which was opened for the facts related to the forced disappearance of Renato Ticona Estrada<sup>138</sup> and which included the investigation of the forced disappearance of Juan Carlos Flores Bedregal. The Commission and the representatives mentioned this procedure, but did not present specific allegations regarding the alleged violations of Articles 8 and 25 of the American Convention. Based on this, the Court shall not make any pronouncement on the aforementioned procedure.

## **A. Arguments of the Commission and the parties**

### **A.1. Due diligence and reasonable time**

91. The **Commission** pointed out that the State failed to initiate an *ex officio* investigation<sup>139</sup> and that 19 years elapsed from the seizure of the COB facilities until the initiation of the ordinary criminal proceedings under analysis, and that this process did not clarify what happened to Juan Carlos Flores Bedregal. It also indicated that serious obstacles were verified in the process, including irregularities, false testimonies about the alleged removal of the body, cover-up, and a "pact of silence" by the Armed Forces and the police, which constitute the violation of the State's duty of due diligence. Regarding the reasonableness of the period of time, he argued that, although the context in which the events occurred made investigations difficult, the national authorities themselves have recognized the delay, especially in the ordinary criminal proceedings initiated in 1999 and completed in 2010. At the time the case was submitted to the Court, more than 38 years had elapsed since the disappearance, with no knowledge of the victim's whereabouts. In addition, the Commission noted that only one of the three persons sentenced "to long-term sentences" in the ordinary criminal proceedings (30 years in prison for the crime of murder in the degree of complicity) served an effective sentence of imprisonment, and the other accused served shorter-term sentences. It concluded that the State violated the rights to judicial guarantees and judicial protection, established in Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2 of the same instrument, as well as Articles I(b) and III of the ICPPT, to the detriment of Mr. Flores Bedregal and his family members.

92. The **representative**, as well as the Commission, alleged a series of violations of duties by the State related to judicial guarantees and judicial protection of the alleged victims in ordinary criminal proceedings, including: i) the obligation to initiate an *ex officio* investigation of the forced disappearance of Mr. Flores Bedregal; ii) the obligation to carry out a serious, diligent, and exhaustive investigation, since the ordinary criminal proceedings suffered a series of irregularities; iii) proportionality in the imposed sentences and the obligation to execute the condemnatory judgment because Franz Pizarro Solano was declared a rebel and there is no information on state efforts to bring him to justice to serve his sentence, José Luis Ormachea is registered as deceased "without having real evidence that this is true," and Felipe Froilán Molina was captured 6 years after the sentence was finalized, constituting a mechanism of impunity, and iv) the obligation to guarantee a reasonable period of time in the investigations, since the conduct of the judicial body and lack of due diligence, procedural inactivity, and lack of momentum caused excessive delays in the criminal proceeding.

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<sup>138</sup> Cf. Informational document on the initiation of an investigation by the Public Prosecutor's Office, addressed to the investigating judge on duty in criminal matters, dated July 27, 2009 (case file of evidence, p. 7570).

<sup>139</sup> The Commission argued this both for the cumulative Suits for Damages pursued by the Public Ministry and its interveners against former de facto President Luis García Meza Tejada and his collaborators and for the ordinary criminal proceedings.

93. The **State** argued that there was a serious, exhaustive investigation focused on the death of the alleged victim, since the judicial authority contemplated the need to investigate and punish those responsible for the "murder" of the alleged victim, and highlighted actions taken by the parties. It pointed out that there was an *ex officio* investigation, since the initiation of the ordinary criminal proceedings was a consequence of submitting the report of the Chamber of Deputies to the Judiciary. The State referred to the elements that constitute the reasonable time and argued that: (i) the case was highly complex, considering the number of subjects of proceedings and the number of crimes that were investigated, tried, and convicted; (ii) as the procedural activity of the person concerned, it assured that the alleged victims had active participation in the process, without interruptions, filing appeals and submitting applications; (iii) the judicial authorities acted diligently in the proceedings in order to clarify the facts of the case, and (iv) with regard to the effect that the duration of the proceedings had on the alleged victims, they did not demonstrate to what extent the duration of the proceedings caused them a grievance, since the State carried out exhaustive work to clarify the facts and punish those responsible, and therefore concluded that it had not violated the reasonable time. Moreover, with regard to the alleged situation of impunity, the State argued that the extinction of the criminal proceedings was prevented, thereby keeping the acts perpetrated in July 1980 from going unpunished. Regarding the lack of compliance with the judgment, he pointed out that, among the convicts, José Luis Ormachea died, and Felipe Froilán Molina is currently serving his sentence in the San Pedro de Chonchocoro prison. With regard to Franz Pizarro Solano, it argued that the necessary efforts were being made to determine his whereabouts. With respect to convicts with a less than 3 years' imprisonment who did not serve it, the State argued that access to certain prison benefits cannot be restricted under Bolivian law.

## **A.2. Definition of the crime of forced disappearance of persons**

94. The **Commission** noted that, in application of the principle of non-retroactivity, the ordinary criminal proceedings concluded in 2007 did not refer to the crime of forced disappearance, which was defined in Bolivian legislation in 2006. Despite the fact that the State ratified the ICPPT on May 5, 1999, and it was only in 2006 that the crime of forced disappearance was incorporated into Bolivian criminal law. It argued that the investigation was not aimed at determining factual circumstances that were related to elements specific to forced disappearance. In this regard, it argued that, due to the continuous or permanent nature of the forced disappearance, if the criminal conduct continues, the new law is applicable.

95. The **representatives** argued non-compliance with the obligation of adequacy of domestic law and its impact on the investigation, due to the delay in the classification of the crime of forced disappearance. It stressed the failure to comply with the duty to punish forced disappearance and argued that because it was not criminalized, the convicted persons received sentences of 2 or 3 years under Bolivian law, benefited from the conditional suspension of the sentence, and should not have served custodial sentences.

96. The **State** argued that the resolution of the ordinary criminal proceedings did not include the crime of forced disappearance because the subject matter of the investigation was Mr. Flores Bedregal's murder. It also argued that it was not possible to apply the principle of non-retroactivity, since the crime was incorporated into national law in 2006, when the case had seen advance in the plenary stage.

## **A.3. Search for the whereabouts or remains of Juan Carlos Flores Bedregal**

97. The **Commission** argued that, despite the proceedings initiated and the actions taken by Mr. Flores Bedregal's relatives, at the time of issuing the Merits Report, the whereabouts of Mr. Flores Bedregal's remains had not been determined, nor had the circumstances of his disappearance or the exact place where he would have been taken after the assault been clarified.

98. The **representative** argued that the first investigative steps recorded are the exhumations carried out in 1983, which were not part of any criminal proceedings. They added that the ordinary criminal proceedings did not inquire on the forced disappearance of Mr. Flores Bedregal. The facts of the case, the perpetrators, and the whereabouts of the alleged victim were not specifically established.

99. For its part, the **State** argued that technical visual inspections and expert examinations have been carried out recently, since the search for the remains of Juan Carlos Flores Bedregal continues.

## **B. Considerations of the Court**

100. The Court recalls that the obligation to investigate human rights violations is among the positive measures that States must adopt to guarantee the rights recognized in the American Convention.<sup>140</sup> This obligation also stems from other inter-American instruments. Indeed, in cases of forced disappearances, the obligation is reinforced by Article I(b) of the ICFDP. Accordingly, in view of the particular seriousness of the forced disappearance of persons and the nature of the violated rights, the prohibition of its commission and the correlative duty to investigate and punish those responsible have reached the status of *ius cogens* (*supra* para. 78).

101. The Court finds States' compliance with their duty to investigate and punish serious human rights violations—such as the ones in this case—not only constitutes an international obligation, but also lays the groundwork essential for consolidating a comprehensive policy on matters of law in terms of establishing the truth, access to justice, effective measures of reparation, and guarantees of non-repetition. Thus, judicial processes aimed at clarifying what happened in contexts of systematic human rights violations can provide a space for public denunciation and accountability for the illegal acts committed; they build society's trust in the legal system and in the work of its authorities, legitimizing their actions; they allow for social reconciliation processes that are based on knowledge of the truth of what happened and the dignity of the victims; and, ultimately, they strengthen collective cohesion and the rule of law.<sup>141</sup>

102. In consideration of the allegations of the parties and the Commission, the Court will rule on several relevant aspects regarding the investigation of the facts in the criminal proceedings "Public Prosecutor v/ Franz Pizarro Solano et al." and will focus on the study of the alleged violations in the following order: a) compliance with the obligation to investigate, prosecute and, where appropriate, punish the forced disappearance of persons within a reasonable time; (b) the definition of the offence of forced disappearance of persons and its failure to apply to the specific case; search for the whereabouts or remains of Juan Carlos Bedregal, and his family's right to know the truth.

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<sup>140</sup> Cf. *Case of Velásquez-Rodríguez v. Honduras. Merits, supra*, para. 166, and *Case of the Julien Grisonas Family v. Argentina, supra*, para. 164.

<sup>141</sup> Cf. *Case of Julien Grisonas family v. Argentina, supra*, para. 165.

### **B.1. Obligation to investigate, prosecute, and, where appropriate, punish the forced disappearance of persons within a reasonable time**

103. The Court has stated that everyone, including the relatives of victims of human rights violations, has the right to learn the truth about what happened.<sup>142</sup> Finally, the right to access to justice must ensure, within a reasonable time, the right of the alleged victims or their relatives to have the necessary measures adopted to know the truth and to investigate, judge, and, where appropriate, punish those responsible.<sup>143</sup>

104. The obligation to investigate, prosecute, and punish serious violations has been recognized by international treaty bodies for the protection of human rights. Specifically, the United Nations Human Rights Committee established from its first cases that States have the obligation to investigate, in good faith, violations of the International Covenant on Civil and Political Rights, and that investigation and prosecution through criminal proceedings constitute the appropriate and necessary way to clarify human rights violations.<sup>144</sup> The Committee also concluded that, in cases of forced disappearance, States must establish what happened to the victims and prosecute those responsible.<sup>145</sup>

105. In the exercise of its intervening and complementary jurisdiction, the Court may examine domestic proceedings in order to evaluate compliance with the obligation to investigate, prosecute, and punish<sup>146</sup> commission of the forced disappearance of persons. Among the aspects to be examined are the jurisdiction of the intervening authorities and the proceedings followed, provided that errors are alleged that may have impaired the possibility of obtaining and presenting evidence to clarify the facts and determine responsibilities, and thus affect the investigation as a whole.<sup>147</sup>

106. With regard to speed of the proceedings in general, this Court has pointed out that the "reasonable time" referred to in article 8(1) of the Convention must be assessed in relation to the total duration of the proceedings that take place until the final judgement is issued. The right to access to justice requires that the dispute be resolved within a reasonable time, since prolonged delay may constitute a violation of judicial guarantees.<sup>148</sup> In this sense, the Court has generally considered the following elements to determine the reasonableness of the term: a) complexity of the matter; b) procedural activity of the interested party; c) conduct of the judicial authorities, and d) affects caused to the legal situation of the person involved in the process. The Court recalls that the State is responsible for justifying—based

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<sup>142</sup> Cf. *Case of Carpio Nicolle et al. v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 22, 2004. Series C No. 117, para. 262, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 100.

<sup>143</sup> Cf. *Case of Bulacio v. Argentina. Merits, Reparations, and Costs*. Judgment of September 18, 2003. Series C No. 100, para. 114, and *Case of Sales Pimenta v. Brazil, supra*, para. 83.

<sup>144</sup> Cf. UN, Human Rights Committee, *Cases Larrosa v. Uruguay*, Communication No. 88/1981, UN Doc. CCPR/C/OP/2 at 176 (1990), Views adopted on March 29, 1983, para. 11.5, and *Gilboa v. Uruguay*, Communication No. 147/1983, expert opinion of November 1, 1985, para. 7.2.

<sup>145</sup> Cf. UN, Human Rights Committee, *Sathasivam v. Sri Lanka*, Communication No. 1436/2005, expert opinion of July 8, 2008, para. 6.4; *Amirov v. Russian Federation*. Communication No. 1447/2006, Expert opinion of April 2, 2009, para. 11.2, and *Felipe and Evelyn Pestaño v. Philippines*. Communication No. 1619/2007, Expert opinion of March 23, 2010, para. 7.2.

<sup>146</sup> Cf. *Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala*. Merits. Judgment of November 19, 1999. Series C No. 63, para. 222, and *Case of Sales Pimenta v. Brazil, supra*, para. 32.

<sup>147</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia. Merits, Reparations, and Costs*. Judgment of September 1, 2010. Series C No. 217, para. 172, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 103.

<sup>148</sup> Cf. *Case of Hilaire, Constantine, and Benjamin et al. Trinidad and Tobago. Merits, Reparations, and Costs*. Judgment of June 21, 2002. Series C No. 94, para. 145, and *Case of Sales Pimenta v. Brazil, supra*, para. 106.

on the above criteria—the time taken, and where it fails to do so, the Court has broad authority to conduct its own assessment.<sup>149</sup>

107. With regard to the procedural activity of the alleged victims, this Court has stated "that the filing of appeals constitutes an objective factor which should not be attributed either to the alleged victim or to the respondent State, but should be taken as an objective element when determining whether the duration of the proceeding exceeded the reasonable time limit."<sup>150</sup>

108. For the purposes of analyzing the reasonable time, the Court usually considers the overall duration of the proceedings until the final judgment.<sup>151</sup> However, in certain cases it may be appropriate to specifically assess each of the stages of the process.<sup>152</sup> In the instant case, given the time that has elapsed since the facts occurred and the initiation of the investigations, it is not applicable to carry out an exhaustive analysis of each procedural stage.<sup>153</sup>

109. In the instant case, the State did not initiate any investigation *ex officio* after the events occurred, but only did so 19 years later, when on November 17, 1998, the Chamber of Deputies urged the investigating judge in criminal matters of the Judicial District of La Paz to issue a first investigation order, which became effective on February 18, 1999 (*supra* para. 47). Eight years later, on December 12, 2007, the Second Circuit Criminal Court issued condemnatory judgment No. 129/2007 in the first instance, which was the subject matter of several appeals. On August 22, 2008, the Third Criminal Chamber of the Superior Court of the Judicial District of La Paz confirmed in its terms the ruling in the portion convicting the defendants, and partly reversed it (*supra* para. 55). After several appeals, on October 25, 2010, Supreme Order 504 of the First Criminal Chamber of the Court (*supra* para. 61) was finally issued, a decision that was apparently not executed immediately and in full: one of the convicts was captured six years later, in 2016; and another of the convicts is currently a fugitive.<sup>154</sup>

110. Although the criminal proceedings "Public Prosecutor v/ Franz Pizarro Solano et al." were somewhat complex due to the number of persons involved and the nature of the facts investigated, the Court observes that the delay is related to irregularities related to the suspension of hearings and other actions aimed at delaying the process, including the request for annulment of the process when the time to issue the judgment drew near. The Court also

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<sup>149</sup> Cf. *Case of Anzualdo Castro v. Peru*, *supra*, para. 156, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 107.

<sup>150</sup> Cf. *Case of Memoli v. Argentina. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 22, 2013. Series C No. 265, para. 174, and *Case of Grijalva Bueno v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of June 3, 2021. Series C No. 426, para. 184, para. 142.

<sup>151</sup> Cf. *Case of Suárez Rosero v. Ecuador. Merits*. Judgment of November 12, 1997. Series C No. 35, para. 71, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 107.

<sup>152</sup> Cf. *Case of the Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 20, 2013. Series C No. 270, para. 403, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 109.

<sup>153</sup> In this regard, a report of the Superior Court of Justice pointed out that "the process became more complex, proof of this can be evidenced by the voluminosity of the case file that [...] is translated into evidence for the prosecution/evidence for the defense repetition and other requests with the sole purpose of delaying the cause and avoiding the ruling of the judgment, which already exists and is pending of appeal for reversal" and cites different aspects as examples. Cf. Report of the Third Chamber of the Superior District Court of October 13, 2008 (case file of evidence, p. 256-266).

<sup>154</sup> Although the judgment left three convictions in firm, the arrest warrants were sent three years later, on November 27, 2013 (case file of evidence, p. 477-478). Franz Pizarro Solano was declared in absentia and the proceedings to arrest him are not known, so he remains free. José Luis Ormachea España is registered as deceased. Finally, Felipe Froilán Molina Bustamante was captured in La Paz, six years after the judgment was handed down (*supra* para. 62).

notes that the delays were not attributable to the procedural actions of Mr. Flores Bedregal's family in their role as plaintiffs; on the contrary, these actions apparently facilitated judicial notifications and other steps related to the proceedings' progress.<sup>155</sup>

111. Consequently, the State is responsible for the lack of due diligence in the initiation and promotion of the investigation on the disappearance of Juan Carlos Flores Bedregal and for the delay in the investigation, prosecution, and, where appropriate, punishment of those responsible in light of the obligation enshrined in Article 8(1) of the American Convention, in relation to Article 1(1) of the same instrument, to the detriment of Olga Beatriz, Verónica, Eliana Isbelia, and Liliam Teresa Flores Bedregal.

## **B.2. Definition of the criminal offense of forced disappearance of persons and failure to apply it to the specific case**

112. Article 2 of the American Convention establishes the general obligation of every State Party to adapt its domestic law to the provisions of the Convention in order to guarantee the rights recognized therein, which means that measures of domestic law must be effective (the *effet utile* principle).<sup>156</sup> In the case of the forced disappearance of persons as an autonomous criminal offense and adoption of an explicit definition of the relevant punishable conduct are essential for the effective judicial clarification and prevention of this practice.<sup>157</sup> Likewise, codification of forced disappearance of persons constitutes an express obligation of the States parties to the IACFP, pursuant to ITS Article III.

113. As indicated *above*, Bolivia deposited the instrument of ratification of the IACFP on May 5, 1999. On January 18, 2006, the State incorporated the definition of forced disappearance of persons into its Criminal Code.<sup>158</sup> In this regard, and based on the *ratione temporis* dimension of this case, it is worth clarifying that the codification of conduct at the domestic level is relevant to the present analysis without entailing its retroactive application, given the nature of forced disappearance as a continuous violation of the State's international obligations whose consummation extends until clarifying a victim's fate.<sup>159</sup> Similarly, the Supreme Court of Justice of Peru, the Constitutional Court of Peru, the Supreme Court of Justice of Mexico, the Supreme Court of Justice of Venezuela, and the Constitutional Court of Colombia,<sup>160</sup> courts of the highest hierarchy in States that, like Bolivia, have ratified the IACFP.

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<sup>155</sup> Cf. Briefs of lawyer Eulogia Pantoja Vacaflor addressed to the Second Criminal Court Judge, dated September 22, 2006, filed on September 23, 2006, and August 28, 2006, submitted on the same date (case file of evidence, p. 299-302).

<sup>156</sup> Cf. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile. Merits, Reparations, and Costs*. Judgment of February 5, 2001. Series C No. 73, para. 87, and *Case of Maidanik et al. v. Uruguay, supra*, para. 146.

<sup>157</sup> Cf. *Case of Gómez Palomino v. Peru, supra*, para. 92, and *Case of Julien Grisonas family v. Argentina, supra*, para. 196. See, Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, General Comment on forced disappearance as a Continuing Criminal Offense, January 26, 2011, U.N. Doc. A/HRC/16/48, para. 11.

<sup>158</sup> Cf. Law No. 3326 of January 18, 2006, published in the Official Gazette on January 21, 2006.

<sup>159</sup> Cf. *Case of Trujillo Oroza v. Bolivia. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 16, 2009, Recital 38, and *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia, supra*, para. 201.

<sup>160</sup> Cf. Supreme Court of Justice of Peru, judgment dated March 20, 2006, Exp: 111-04, D.D Cayo Rivera Schreiber. Constitutional Court of Peru, judgment of March 18, 2004, case file No. 2488-2002-HC/TC, para. 26 (<http://www.tc.gob.pe/jurisprudencia/2004/02488-2002-HC.html>) and judgment of 9 December 2004, case No. 2798-04-HC/TC, para. 22 (<http://www.tc.gob.pe/jurisprudencia/2005/02798-2004-HC.html>). Supreme Court of Justice of Mexico, Thesis: P./J. 49/2004, Judicial Weekly of the Federation and its Gazette, Ninth Epoch, Full Court. Constitutional Chamber of the Supreme Court of Justice of the Bolivarian Republic of Venezuela, judgment of August 10, 2007. Constitutional Court of Colombia, judgment C-580/02 of July 31, 2002.

114. In the instant case, Mr. Flores Bedregal's sisters repeatedly requested that the national authorities open an investigation into forced disappearance.<sup>161</sup> However, the autonomous criminal offence of forced disappearance was not applied in the Liability Trials or in the proceedings related to the investigation of the events that occurred with relation to Mr. Flores Bedregal. The criminal offenses investigated refer to the crimes of armed uprising against the security and sovereignty of the State or of concealment and false testimony, which protect other legal rights related to the security and sovereignty of the State or to judicial activity. In fact, with the exception of homicide, no other conduct concurrent with the configuration of forced disappearance as a complex criminal offense was considered.

115. The above means that the investigations and judicial proceedings were not consistent with the gravity of the continuing violations perpetrated against Juan Carlos Flores Bedregal; with the historical and political context in which they were carried out; with the characteristics of the pact of silence that hindered the due clarification of the facts; with the complexity of the multiple violations of rights that the forced disappearance of persons entails; and with the challenges of clarifying the truth and repairing the consequences. In short, the failure to apply the autonomous criminal offense of forced disappearance existing in legislation or of other measures to make the rights protected by the Convention in cases of forced disappearance effective resulted in a fragmented approach that far from reflected the complexity of the facts and enabled the lines of investigation leading to clarification of the case.<sup>162</sup> This omission fails to meet the standards that should guide the investigation of forced disappearance as established in this Court's case law and the decisions of other treaty bodies; the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance; the Inter-American Convention on Forced Disappearance of Persons; and the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>163</sup>

116. Therefore, this Court considers that the State is responsible for failing to comply with the obligation set forth for in Article 2 of the American Convention,<sup>164</sup> in violation of the judicial

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<sup>161</sup> Cf. Complaint filed by the attorney Eulogia Pantoja Vacafior, *supra*, in which it is mentioned that "it is not known where his body is [...] it must be taken into account that forced disappearance in political matters is a criminal offense against humanity and does not prescribe, according to its last part of the (new) Code of Procedure [...]"; brief by Verónica and Olga Flores Bedregal addressed to the Vice President of Bolivia as Director of the Inter-institutional Council for the Clarification of forced disappearances, stamped in acknowledgment of receipt in August 5, 2003, requesting that the search for the remains of Carlos Flores Bedregal also be included (case file of evidence, p. 254); appeals for annulment and cassation against Judgment 129/2007 and Court Order No. 103/2008, presented by Olga Beatriz Flores Bedregal before the Third Criminal Chamber of the Superior Court of Justice on January 24, 2009 (case file of evidence, p. 434-455), and appeal for annulment against Court Order No. 103/2008, presented by María Soledad Quiroga Trigo before the Third Criminal Chamber of the Superior Court of Justice of May 12, 2009 (case file of evidence, p. 8107-8122).

<sup>162</sup> Cf. *Case of Julien Grisonas family v. Argentina, supra*, para. 206.

<sup>163</sup> Cf. *Case of Bámaca Velásquez v. Guatemala. Supervision of Compliance with Judgment*, Order of the Inter-American Court of Human Rights of January 27, 2009, Recital 27, and *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia, supra*, para. 197.

<sup>164</sup> As the Court has pointed out, the forced disappearance of a person continues to exist until their whereabouts are found or their remains are identified with certainty (Cf. *Case of Velásquez-Rodríguez v. Honduras. Merits, supra*, paras. 155-157, and *Case of Vereda La Esperanza v. Colombia. Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 31, 2017, Series C No. 341, para. 150*). However, the cessation of forced disappearance does not affect the classification of the facts that shaped it in this way (Cf. *Case of Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia, supra*, para. 368). The obligations established by the Inter-American Convention on Forced Disappearance are enforceable upon ratification, even if the beginning of its execution was earlier (Cf. *Case of the Las Dos Erres Massacre v. Guatemala. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 24, 2009. Series C No. 211, para. 137*; and *Case of Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia, supra*, para. 438). On the other hand, even if the forced disappearance ceases prior to the aforementioned ratification, the failure to investigate the forced disappearance violates the Inter-American Convention on Forced Disappearance, to the detriment of the family of the person who had been forcibly disappeared (Cf. *Case of Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia, supra*, paras. 438 and 513).

guarantees and protection enshrined in Articles 8(1) and 25(1) of the American Convention, in relation to Article 1(1) thereof, and with the provisions of Article III of the IACFP.

### **B.3. Search for the whereabouts or remains of Juan Carlos Flores Bedregal, and his family's right to know the truth**

117. On many occasions, the Court has ruled on the obligation of States to carry out a serious, systematic, and rigorous search to find the whereabouts of disappeared persons or their remains, using adequate and competent human, technical, and scientific resources.<sup>165</sup> Returning the body of a disappeared person is extremely important for their family, because it allows for proper burial them in keeping with their beliefs, and also to bring closure to the grieving process that they have been experiencing over the years.<sup>166</sup>

118. The Court has also indicated that the State bodies responsible for investigating the forced disappearance of persons – the purpose of which is the determination of their whereabouts and clarification of what happened, the identification of those responsible, and their possible punishment – must perform their task diligently and thoroughly.<sup>167</sup> In cases of forced disappearances, the obligation to investigate is reinforced by the obligations established in the respective norms of the Inter-American Convention on Forced Disappearance,<sup>168</sup> among which it is worth mentioning, because it is relevant in this case, the one prescribed in article I, paragraph b), referring to the duty to punish the crime of forced disappearance or its attempt.

119. There is no conclusive information on the whereabouts or fate of the remains of Juan Carlos Flores Bedregal in this case. The available information indicates that in February and April of 1983, two exhumations of remains were carried out, determining that they did not belong to Juan Carlos Flores Bedregal. Another exhumation was scheduled for March of that same year but ultimately did not take place. In 1992, the remains exhumed in 1983 were again exhumed at the request of the Flores Bedregal sisters to be examined by the Argentine Forensic Anthropology Team, who determined that they were not those of the alleged victim (*supra* para. 68). In addition, in 2003, the Institutional Council for the Clarification of forced disappearances (CIEDEF, from the Spanish) was set up to investigate forced disappearances during the period of 1964-1982. There is no information as to whether this institution took any steps to locate the whereabouts or remains of Mr. Flores Bedregal. Subsequently, the State reported that on September 8, 2021, the prosecutor in charge made "a computer statement complementary to [MFC] known as "the gravedigger" in order to have more information about the whereabouts of the remains of Flores Bedregal and other victims of the

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<sup>165</sup> Cf. *Inter alia*, *Case of Contreras et al. v. El Salvador. Merits, Reparations, and Costs*. Judgment of August 31, 2011. Series C No. 232, para. 191; *Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 20, 2012. Series C No. 253, para. 334; *Case of Garcia and family v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 29, 2012 Series C No. 258, para. 200; *Case of Osorio Rivera and family v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 26, 2013. Series C No. 274, para. 251; and *Case of Munárriz Escobar et al. v. Peru. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of August 20, 2018. Series C No. 355, para. 104; and *Case of Terrones Silva et al. v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of September 26, 2018. Series C No. 360, para. 203; *Case of Alvarado Espinoza et al. v. Mexico. Merits, Reparations, and Costs*. Series No. 370, para. 299, and *Case of Garzón Guzmán et al. v. Ecuador. Merits, Reparations, and Costs*. Judgment of September 1, 2021. Series C No. 434, para. 74; *Case of Julien Grisonas family v. Argentina, supra*, para. 209, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 206.

<sup>166</sup> Cf. *Case of the "Las Dos Erres" Massacre v. Guatemala, supra*, para. 245, and *Case of Maidanik et al. v. Uruguay, supra*, para. 219.

<sup>167</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 177, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 101.

<sup>168</sup> Cf. *Case of Terrones Silva et al. v. Peru, supra*, para. 181, and *Case of Maidanik et al. v. Uruguay, supra*, para. 137.

military dictatorship," and that on December 16 and 17, 2021, two technical visual inspections were carried out at the Provincial Terminal of the city of El Alto and in the General Cemetery of La Paz, respectively, as possible burial sites for victims of the military dictatorship. No results were obtained from these proceedings (*supra* para. 69).

120. Based on the foregoing, without ignoring the complexity involved in the search for a disappeared person in contexts such as the instant case, the Court considers that the State's obligation to investigate the whereabouts and, if necessary, locate the remains of Mr. Flores Bedregal, cannot be exhausted in a formality or in the historical context that he was a victim of the 1980 coup d'état. To act consistently with its duty to perform due diligence, the State must make every effort systematically, rigorously, and with adequate and appropriate means,<sup>169</sup> including by requesting international cooperation.<sup>170</sup>

121. The Court emphasizes the autonomous nature of the obligation to search for and locate disappeared persons,<sup>171</sup> which must be fulfilled in an efficient, comprehensive, adequate, and diligent manner.<sup>172</sup> This autonomous obligation is closely related to the right of family members to know the truth about the fate of their loved ones. Based on the above, this Court concludes that the State failed to comply with its obligation to conduct a systematic, rigorous, and due diligence search for the whereabouts of Mr. Flores Bedregal or his remains.

#### **B.4. General conclusion**

122. In view of the above, the Court concludes that: (a) there was a lack of observance of due diligence with respect to the conducting of the criminal investigation and proceedings; (b) there was an excessive and unjustified delay in the conduct of the proceedings to investigate, prosecute, and, where appropriate, punish those responsible for the facts; (c) more than four decades after the beginning of the forced disappearance of Juan Carlos Flores Bedregal, the trial and eventual punishment of those responsible is still pending; d) the State failed to comply with its obligation to adopt provisions or measures at its domestic level to protect and ensure the validity of the rights violated as a result of the forced disappearance of the victim, and e) all necessary efforts have not been made to clarify the whereabouts of the victim or locate his remains, in violation to their relatives' right to the truth.

123. Consequently, this Court considers that the State violated Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2 of the same instrument, as well as the right to know the truth, and Articles I(b) and III of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Verónica, Eliana Isbelia, Liliam Teresa, and Olga Beatriz Flores Bedregal.

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<sup>169</sup> Cf. *Case of Contreras et al. v. El Salvador*, *supra*, para. 191, and *Case of Maidanik et al. v. Uruguay*, para. 151.

<sup>170</sup> Cf. *Case of Gelman v. Uruguay. Merits and Reparations*. Judgment of February 24, 2011. Series No. 221, para. 234, and *Case of Julien Grisonas Family v. Argentina*, *supra*, para. 213.

<sup>171</sup> Cf. *Case of Garzón Guzmán et al. v. Ecuador* *supra*, para. 75, and *Case of Julien Grisonas family v. Argentina*, *supra*, para. 214.

<sup>172</sup> See, Committee on forced disappearances, Guiding Principles for the Search for Disappeared Persons, U.N. Doc. CED/C/7, May 8, 2019, Principles 1, 4 to 8, 10, 12, 13, 15 and 16; and *Case of Julien Grisonas Family v. Argentina*, *supra*, para. 214.

**VII-III**  
**RIGHT TO JUDICIAL GUARANTEES, IN RELATION TO THE OBLIGATIONS TO**  
**RESPECT AND ENSURE RIGHTS AND TO ADOPT DOMESTIC LEGAL PROVISIONS,**  
**ESTABLISHED IN THE AMERICAN CONVENTION<sup>173</sup>**

124. In order to determine whether the State is responsible for the alleged violations of Articles 13 and 8(1), in relation to Articles 1(1) and 2, all of the American Convention, the Court will synthesize the arguments of the parties, and make the pertinent considerations on the judicial processes and the normative framework related to the right to seek and receive information.

125. According to the file, the requests for declassification and access to information contained in military archives "that could clarify the whereabouts of Juan Carlos Flores Bedregal and possible perpetrators of his forced disappearance" were initiated and promoted in the context of the criminal "Public Prosecutor's Office v/ Franz Pizarro Solano et al." proceedings and the administrative procedure before the Armed Forces derived from Ministerial Resolution No. 316. As to Procedure No. 6441/09, reference will be made only with regard to the process of the "Public Prosecutor v/ Franz Pizarro Solano et al."

**A. Judicial and administrative proceedings**

**A.1. Criminal proceedings "Public Prosecutor's Office v/ Franz Pizarro Solano et al."**

**A.1(1). Arguments of the Commission and the parties**

126. The **Commission** reported that in the criminal proceedings "Public Prosecutor v/ Franz Pizarro Solano et al.," the judicial authorities belatedly issued orders for the declassification of military archives, which were not complied with in a timely manner by the Armed Forces. It noted that the State was obliged to respond in a timely manner to requests for access to information and to ensure that the Armed Forces provided the information to the judicial authorities and to Mr. Flores Bedregal's family; it therefore failed to fulfil its positive obligations in this matter. In addition, it noted that court orders did not guarantee direct access to information for Mr. Flores Bedregal's relatives. It argued that victims of serious human rights violations and their families have the right to direct and timely access to the information necessary to know the truth about what occurred, including that contained in military archives; whereas states cannot invoke national security reasons to prevent such access; and that the invocation of article 98 of the Organic Law of the Armed Forces is incompatible with the obligations of the State in this matter. It concluded that the State violated Articles 13 and 25 of the Convention, in relation to Articles 1(1) and 2 of the same instrument.

127. The **representative** alleged that, by not responding in a timely manner to requests for access to information, the State obstructed exercise of the right to the truth and prevented the obtaining of essential evidence for the clarification of what occurred. It indicated that the judicial authorities issued the condemnatory judgment without having responded to the requests for declassification and access to military archives submitted in 2006; and that in the appeal, the judicial authorities ordered access to the military archives, but did not ensure compliance or take measures to ensure their effectiveness. Similarly, no sanctions were imposed for disobedience to orders, thus emphasizing the right to truth and the right of access

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<sup>173</sup> Articles 1(1), 2, 8(1), 13(1), and 13(2) of the American Convention.

to information. It alleged that the State violated Articles 8, 13 and 25 of the Convention, in relation to Articles 1(1) and 2 of the same instrument.

128. The **State** alleged that the Flores Bedregal sisters requested declassification of Armed Forces files for the first time in 2006; that the Third Magistrate's Court had access to this information in 1999, since the Armed Forces provided documentation to Department II of the Joint Chiefs of Staff; that the request of August 22, 2006, was answered; that Letter No. 496/2008 of July 25, 2008 was not complied with because a month later, on August 22, 2008, the judgement of the first instance was decided on appeal; and that the Supreme Court's decisions were effectively enforced on September 23, 2010, pursuant to Supreme Orders No. 125 and No. 167, when the first judicial inspection of the Joint Chiefs of Staff was carried out.

## **A.2. Administrative procedure before the Armed Forces pursuant to Ministerial Resolution No. 316/09**

### **A.2.1. Arguments of the Commission and the parties**

129. The **Commission** noted that the State did not guarantee a simple procedure for making requests for access to information contained in military archives, but onerous and exorbitant requirements were imposed on the victims' families to access military archives. In addition, it indicated that the families did not have an effective judicial remedy to challenge the decision of the Ministry of defense, since the amparo action by which they challenged the decision was rejected *in limine*. It added that, beyond judicial inspections, the State did not demonstrate that it had made a significant effort to locate and/or reconstruct information under the Armed Forces' control that would determine the whereabouts of Mr. Flores Bedregal and identify the agents responsible for the alleged forced disappearance.

130. The **representative** reiterated the Commission's arguments on the need for a simple procedure and an effective judicial remedy for access to information. They added that the rejection *in limine* of the constitutional amparo action filed by the Flores Bedregal sisters made this remedy illusory and requested a declaration of violation of Articles 1(1), 2, 8, 13, and 25 of the American Convention.

131. For its part, the **State** alleged that the authorities' initial response was intended to regulate access to information in accordance with the Organic Law of the Armed Forces, and that the request was never denied, since the Flores Bedregal sisters asked for clarifications and were told that they would be "answered as soon as possible." It pointed out that the constitutional amparo action is the appropriate remedy to guarantee the right of access to information contemplated in the Constitution. It alleged that, in this case, the Flores Bedregal sisters presented the remedy erroneously, since they failed to comply with the requirement of subsidiarity by not exhausting administrative jurisdiction.

## **B. Considerations of the Court**

### **B.1. Access to information in cases of forced disappearance of persons**

132. By expressly stipulating the right to seek and receive information, Article 13 of the Convention protects the right of all individuals to request access to State-held information, with the exceptions permitted by the restrictions established in the Convention.<sup>174</sup> Consequently, this article protects the right of the individual to receive such information and

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<sup>174</sup> Cf. *Case of Claude Reyes et al. v. Chile. Merits, Reparations, and Costs*. Judgment of September 19, 2006. Series C No. 151, para. 77, and *Case of the Kaliña and Lokono Peoples v. Suriname. Merits, Reparations, and Costs*. Judgment of November 25, 2015. Series C No. 309, para. 261.

the positive obligation of the State to provide it, so that the individual may have access to such information or receive an answer that includes a justification when, for any reason permitted by the Convention, the State is allowed to restrict access to the information in a specific case.<sup>175</sup> The law also protects the two dimensions, both the individual and the social, of the right to freedom of thought and expression, which must be simultaneously guaranteed by the State.<sup>176</sup>

133. The Court has highlighted the existence of a regional consensus of States that comprise the Organization of American States on the importance of access to public information. The protection of the right to access public information has been the objective behind specific orders issued by the General Assembly of the OAS<sup>177</sup> wherein "[i]t urg[ed] States Parties to respect and ensure the access to public information of all persons and [to promote] the adoption of legal provisions or of another nature that are necessary to assure its recognition and effective application."<sup>178</sup> Likewise, the General Assembly has recognized that access to public information is an indispensable requirement for the very functioning of democracy, greater transparency, and good governance, and that in a representative and participatory democratic system, citizens exercise their constitutional rights through broad freedom of expression and free access to information.<sup>179</sup>

134. The Court has identified as requirements for any restriction on the right of access to information the legal characterization, legitimate objective, and necessity for a democratic society. With regard to the first requirement, it is necessary that the limitation be established in a norm in order to guarantee that it is not left to the discretion of the public authority. In the case of the second requirement, the legitimate objectives of the restriction must be based on Article 13(2) of the Convention, i.e. "respect for the rights or reputations of others," "the protection of national security, public order, or public health or morals." Finally, the restriction

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<sup>175</sup> Cf. *Case of Claude Reyes et al. v. Chile*, supra, para. 77, and *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 24, 2010. Series C No. 219, para. 197. See also *Case of the Kaliña and Lokono Peoples v. Suriname*, supra, para. 265.

<sup>176</sup> Cf. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile*, supra, para. 67, and *Case Moya Chacón and v. Costa Rica. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of May 23, 2022. Series C No. 451, para. 62.

<sup>177</sup> Cf. *Case of Claude Reyes et al. v. Chile*, supra, para. 78, and *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil*, supra, para. 198.

<sup>178</sup> Cf. OAS General Assembly, AG/RES. 2514 (XXXIX-O/09) of June 4, 2009, on "Access to Public Information: Strengthening Democracy," Second Operative Paragraph. On the other hand, the Model Inter-American Law 2.0 on Access to Public Information of the OAS establishes among its standards that any person who requests information from any public authority must have the right to: a) be informed as to whether or not the documents containing the requested information, or from which such information may be derived, are in the possession of the public authority; (b) if such documents are in the possession of the public authority which received the request, to have such information conveyed promptly; (c) if such documents are not provided to the applicant, appeal the non-delivery of the information; (d) to make requests for information in anonymous form; (e) to request information without having to justify the reasons for which it is requested; (f) not to be subject to any discrimination that may be based on the nature of the request, and (g) to obtain the information free of charge or at a cost not exceeding that generated by the reproduction of the documents. This law must be applicable to any public authority belonging to any of the branches of government (executive, legislative and judicial branches) and to all levels of the governmental structure (central or federal, regional, provincial or municipal). Likewise, the Model Inter-American Law establishes that no public authority should be exempt from the aforementioned requirements, including the legislative and judicial branches, supervisory institutions, intelligence services, armed forces, police, other security forces, heads of State and Government and the dependencies that comprise it. Cf. Model Inter-American Law 2.0 on Access to Public Information, of the Organization of American States. Document OEA/Ser.D/XIX.12.2020, articles 2 and 3. Available at:

[https://www.oas.org/es/sla/ddi/docs/publicacion\\_Ley\\_Modelo\\_Interamericana\\_2\\_0\\_sobre\\_Acceso\\_Informacion\\_Publica.pdf](https://www.oas.org/es/sla/ddi/docs/publicacion_Ley_Modelo_Interamericana_2_0_sobre_Acceso_Informacion_Publica.pdf)

<sup>179</sup> Cf. OAS General Assembly, Resolutions AG/RES. 1932 (XXXIII-O/03) of June 10, 2003; AG/RES. 2057 (XXXIV-O/04) of June 8, 2004; AG/RES. 2121 (XXXV-O/05) of June 7, 2005; AG/RES. 2252 (XXXVI-O/06) of June 6, 2006; AG/RES. 2288 (XXXVII-O/07) of June 5, 2007; AG/RES. 2418 (XXXVIII-O/08) of June 3, 2008, and AG/RES. 2514 (XXXIX-O/09) of June 4, 2009, all on "Access to Public Information: Strengthening Democracy."

must be necessary for a democratic society, meaning that it must be a measure proportional to the satisfaction of the interest it seeks to achieve.<sup>180</sup>

135. Although there is a general interest in safeguarding information related to national security, the State must devise the means to provide information relevant to the clarification of the forced disappearance of persons (*infra* para. 138). Likewise, restrictions on access to information in the context of the investigation of a forced disappearance are contrary to the right to the truth. As the UN Human Rights Council has pointed out,<sup>181</sup> the right to know the truth about the whereabouts of the disappeared person should not be conditional on limitation or suspension, nor should it yield to the invocation of legitimate purposes or exceptional circumstances. Similarly, forced disappearance also causes anguish and pain to the disappeared person's family, placing them on the threshold of cruel treatment and torture.

136. In these contexts, the right of access to information requires the active participation of all the authorities involved. It is not enough to provide or allege the absence of information to guarantee the right of access to information, but efforts to establish the whereabouts of the victim must be exhausted. In this regard, declassification and access to documents of the security forces is essential in order to ensure a transparent investigation.

137. The Inter-American Court has also developed content on the right to know the truth in cases of forced disappearance. Since the *Case of Velásquez Rodríguez v. Honduras*, and throughout its case law, the Court has recognized the "relatives' right to know the fate of the victims and, if they have been killed, the location of their remains."<sup>182</sup> As this Court has stated, "everyone, including the relatives of victims of serious human rights violations, has the right to know the truth [about them]," which implies that "they must be informed of everything that happened in relation to said violations."<sup>183</sup> The right to truth is autonomous and has a broad nature. Depending on the context and circumstances of the case, it may relate to various rights recognized in the American Convention,<sup>184</sup> such as the rights to judicial guarantees, and judicial protection, recognized by Articles 8 and 25<sup>185</sup> or the right of access to information, protected by Article 13.<sup>186</sup>

138. The Court deems that in cases of human rights violations, the State authorities cannot resort to mechanisms such as official secret or confidentiality of the information, or reasons of public interest or national security, to refuse to supply the information required by the judicial or administrative authorities in charge of the ongoing investigation or proceeding,<sup>187</sup> and the parties must be included in these judicial and administrative proceedings. The state

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<sup>180</sup> Cf. *Case of Claude Reyes v. Chile*, *supra*, paras. 89-91, and *Case of Moya Chacón et al. v. Costa Rica*, *supra*, paras. 71 and 72.

<sup>181</sup> Cf. United Nations Human Rights Council "General Comments on the Declaration on the Protection of All Persons from Enforced disappearance," Report of the Working Group on Enforced or Involuntary Disappearances, 2010. Document A/HRC/16/48, January 26, 2011, p.15, No. 4. See also *Amicus Curiae* prepared by the "Clínica Jurídica de Libertades Informativas y Transparencia de la Universidad del Pacífico" [Legal Clinic of Information Freedoms and Transparency of the University of the Pacific on the occasion of the Case of Flores Bedregal et al. v.] Bolivia, January 29, 2021. Available at: <https://clinicajuridica.up.edu.pe/wp-content/uploads/Amicus-CLI-UP-Caso-Flores-Bedregal-Vs.-Bolivia-FINAL.pdf>

<sup>182</sup> Cf. *Case of Velásquez-Rodríguez v. Honduras. Merits*, *supra*, para. 181, and *Case of Maidanik et al. v. Uruguay*, *supra*, para. 177.

<sup>183</sup> Cf. *Case of Trujillo Oroza v. Bolivia. Reparations and Costs*. Judgment of February 27, 2002. Series No. 92, para. 100, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 114.

<sup>184</sup> Cf. *Case of Trujillo Oroza v. Bolivia*, *supra*, para. 101, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 115.

<sup>185</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Merits*, *supra*, para. 181, and *Case of Sales Pimenta v. Brazil*, *supra*, para. 115.

<sup>186</sup> In this regard, the Court observed that the right to know the truth was related to an action filed by family members to access certain information.

<sup>187</sup> Cf. *Case of Myrna Mack Chang v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 25, 2003. Series C No. 101, para. 180, and *Case of Movilla Galarcio et al. v. Colombia*, *supra*, para. 159.

authorities are obliged to assist in gathering evidence to achieve the objectives of an investigation and refrain from carrying out acts that would obstruct the progress of the investigation.<sup>188</sup>

139. Likewise, when a punishable fact is being investigated, the decision to define the information as secret and to refuse to submit it can never depend exclusively on a State body whose members are deemed responsible for committing the illegal act.<sup>189</sup> Likewise, the final decision concerning the existence of the documentation requested cannot be left to their discretion.<sup>190</sup> In addition, the State cannot waive its positive obligations to ensure the right to the truth and access to public files merely by alleging that the information requested by the judge in charge of investigating the facts of this case is non-existent or was destroyed. To the contrary, the State has the obligation to seek that information using all possible means, and make the necessary efforts to reconstruct such information, which may include conducting several procedures in military archives.<sup>191</sup>

140. The Court highlights the State's obligation to guarantee the effectiveness of an appropriate procedure for the processing and resolution of the requests for information. Such a procedure should set deadlines for resolving and delivering information, and should be administered by officials that are duly qualified. Finally, given the denial of access to determined information under State control, the State must guarantee the existence of a simple, quick, and effective remedy before an independent organ, distinct from the one that denied the request, that can determine if there was harm to the right to access information, and where applicable, order the corresponding authority to present said information.<sup>192</sup>

## **B.2. Analysis of the specific case**

141. The Court will rule on State action relating to requests for information after July 27, 1993, the date from which this Court has jurisdiction to hear alleged violations of the Convention attributed to Bolivia (*supra*, para. 14). After referring to the domestic regulatory framework on the right of access to information, the Court will examine requests made in the context of: a) criminal proceedings of the "Public Prosecutor v/ Franz Pizarro Solano et al.", and b) the administrative procedure by Ministerial Resolution No. 316/09.

### **B.2.1 Domestic regulatory framework on the right of access to information**

142. Article 21.6 of the Political Constitution of the Plurinational State of Bolivia provides that Bolivian women and men have the right to access, interpret, analyze, and communicate information freely, whether individually or collectively. Likewise, Article 106(I) and (II) determines that the State must guarantee the right of access to information.<sup>193</sup>

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<sup>188</sup> Cf. *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. 112, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 159.

<sup>189</sup> Cf. *Case of Myrna Mack Chang v. Guatemala, supra*, para. 181, and *Case of Herzog et al. v. Brazil. Preliminary Objections, Merits, Reparations, and Costs*. Judgment dated March 15, 2018. Series C No. 353, para. 333.

<sup>190</sup> Cf. *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, supra*, para. 202, and *Case of Herzog et al. v. Brazil, supra*, para. 334.

<sup>191</sup> Cf. *Case of Herzog et al. v. Brazil, supra*, para. 334, and *Case of the Massacres of El Mozote and surrounding areas v. El Salvador*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights dated November 25, 2021, whereas clause 6.

<sup>192</sup> Cf. *Case of Claude Reyes et al. v. Chile, supra*, paras. 137 and 163, and *Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil, supra*, para. 231.

<sup>193</sup> Cf. Political Constitution of the Plurinational State of Bolivia, of February 7, 2009, articles 21 and 106. Available at: [https://www.oas.org/dil/esp/constitucion\\_bolivia.pdf](https://www.oas.org/dil/esp/constitucion_bolivia.pdf)

143. Article 98 of the Organic Law of the Armed Forces establishes that "[t]he classified documentation of the Military Rank is secret and inviolable. This condition may only be lifted: a. At the reasoned request of the Legislative Power. b. By judicial [o]rder of the competent Judge, through a reasoned order in formal proceedings. In both cases, the information must be forwarded to the requester through the commander in chief and must be kept confidential."<sup>194</sup>.

144. Ministerial Resolution No. 316/09 authorizes the Armed Forces Command in Chief to facilitate access to family members and victims of regimes subject to military dictatorships to archives, public records, and existing documents of the Armed Forces, who so request and demonstrate a legitimate interest (*supra* para. 63).

### **B.2.2 Criminal proceedings "Public Prosecutor v/ Franz Pizarro Solano et al."**

145. According to the file, the Flores Bedregal sisters requested the declassification of the archives of the Armed Forces in the process of the "Public Prosecutor v/ Franz Pizarro Solano et al." (*supra* para. 51). However, this process was resolved at the appeals level on August 22, 2008, without the right of access to information being granted to the Flores Bedregal sisters (*supra* para. 55).

146. On February 15, 2010, in cassation, the Flores Bedregal sisters reiterated before the First Criminal Chamber of the Supreme Court of Justice of the Nation their request for the declassification of the documents filed in the Second Department of the Joint Chiefs of Staff, the report of entries and exits to the Joint Chiefs of Staff, and access to military archives (*supra* para. 59). On March 12, 2010, the Appeals Prosecutor of the Office of the Prosecutor General also requested that the Supreme Court of Justice grant the request for declassification of files of the Armed Forces (*supra* para. 59). These requests were accepted in Supreme Order No. 125 of the First Criminal Chamber of the Supreme Court of Justice, which on April 1, 2010, ordered the General Commander of the Armed Forces to proceed "with the declassification of the files existing in the Second Department of the Joint Chiefs of Staff, from June 1979 to December 1980, and the report of entries and exits to the Joint Chiefs of Staff from July 10 to 20, 1980, certified photocopies must be sent" to that court (*supra* para. 59). On April 16, 2010, the same Chamber, at the request of Mrs. Olga Flores Bedregal, supplemented the previous order and by Supreme Order No. 167 added to the declassification order, the documents relating to the Armed Forces Personnel Rank existing in the General Staff from June 1979 to December 1980 (*supra* para. 59). On October 25, 2010, the Supreme Court of Justice issued a cassation judgment that confirmed the criminal conviction of the accused without the information having been presented in the proceedings (*supra* para. 61).

147. On September 28, 2010, in the context of criminal proceedings brought by the Public Prosecutor's Office at the request of victims of the dictatorship of Luis García Meza Tejada against perpetrators (No. 6441/09) before the Eighth Magistrate's Court on Precautionary Criminal Matters, a visual inspection was allegedly carried out by a commission of prosecutors on the premises of the General Staff (*supra* para. 60) and by official letter of October 19, 2010, in criminal proceedings No. 6441/09, the Commander in Chief of the Armed Forces allegedly complied with the Supreme Orders of the First Criminal Chamber of the Supreme Court of Justice and the decisions of the Eighth Magistrate's Court on Precautionary Criminal Matters<sup>195</sup> sending legalized photocopies in three sealed envelopes. The Court emphasizes

<sup>194</sup> Cf. Organic Law on the Armed Forces, Law No. 1405 of December 30, 1992, article 98. Available at: <https://www.mindef.gob.bo/mindef/node/29>

<sup>195</sup> In process No. 6441/09, the Eighth Magistrate's Court on Precautionary Criminal Matters issued three resolutions ordering access to military archives: (a) on 16 September 2009, Resolution No. 384/2009; (b) February

that the same authorities under investigation were the ones who selected, classified, and delivered the requested information. This Court also notes that the orders issued in the Supreme Orders of the First Criminal Chamber of the Supreme Court No. 125 and No. 167 were dictated within the process "Public Prosecutor v/ Franz Pizarro et al." However, these decisions were complied with belatedly, in criminal proceedings No. 6441/09. Nor does it appear that the information complying with those orders was sent to the aforementioned criminal proceedings "Public Prosecutor v/ Franz Pizarro Solano et al.," so it can be inferred that the judgment of October 25, 2010, in that process was issued without knowing such information. In addition, in the letter sent by the Command of the Armed Forces, it was indicated that the aforementioned documentation should remain confidential in accordance with article 98 of the Organic Law of the Armed Forces.

148. Then, despite the fact that the judicial orders for the declassification of the information had been complied with, the documentation was not provided in a timely manner, in such a way that the judicial authorities did not have access to it at the time of issuing the cassation judgment in the framework of the criminal process "Public Prosecutor v/ Franz Pizarro Solano et al." In addition, the information provided in criminal proceedings No. 6441/09 was sent to the Appeals Prosecutor of the Office of the Prosecutor General, warning that "documentation is of a SECRET and INVIOLEABLE nature," thus restricting the use that could be given to it by the judicial authorities.<sup>196</sup> Although the restriction on access to information was contemplated in the Organic Law of the Armed Forces;<sup>197</sup> State agents did not indicate what objective allowed by the American Convention was intended to protect, therefore, the restriction cannot be considered necessary or proportionate in a democratic society, since it had the effect of excessively affecting the right of access to information of the relatives of disappeared persons, hindering the search for their loved ones and thus prolonging their suffering. To this effect, the restriction of access to information did not comply with conventional parameters. In addition, the military authorities selected the information provided, and current standards require that the decision to define the information as secret and to refuse to submit it can never depend exclusively on a State body whose members are deemed responsible for committing the illegal act.<sup>198</sup> Finally, victims in a case of forced disappearance of persons –in this case the Flores Bedregal sisters– were denied access to the information necessary to clarify the whereabouts of their disappeared relative.

### **B.2.3 Administrative procedure by Ministerial Resolution No. 316/09**

149. On June 1, 2009, Verónica Flores Bedregal submitted a request for access to information to the Armed Forces Command in Chief based on Ministerial Resolution No. 316/09. In response to the request, the Commander in Chief of the Armed Forces made the request conditional on compliance with the following requirements: 1) demonstrate a legitimate interest in the request for information; 2) specify the dates and details of the required information; 3) establish the ways in which "the secrecy of the information provided will be guaranteed," and 4) comply with the requirements and formalities of law before the competent authority (*supra* para. 63).

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10, 2010, Resolution No. 59/2010, and (c) March 1, 2010, Resolution No. 101/2010. *Cf.* Resolutions No. 384/2009, No. 59/2010, and No. 101/2010, of the Eighth Magistrate's Court on Precautionary Criminal Matters within the criminal proceedings followed by the Public Prosecutor's Office at the request of victims of Luis García Meza Tejada's dictatorship against the perpetrators (case file of evidence, p. 578-582, 8563-8564, and 8566-8567).

<sup>196</sup> *Cf.* Press release of the Command in Chief of the Armed Forces of the Joint Chiefs of Staff, addressed to the Appeals Prosecutor of the Office of the Prosecutor General, of October 19, 2010, *supra*.

<sup>197</sup> *Cf.* Organic Law on the Armed Forces, *supra*.

<sup>198</sup> *Cf. Case of Myrna Mack Chang v. Guatemala, supra*, para. 180, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 159.

150. The Court notes that, through the Armed Forces Command, the State required compliance with additional requirements to those expressly contemplated in Ministerial Resolution No. 316/09, without indicating why they were necessary before providing the requested information. The military authority also did not respond to the clarifications requested by the Flores Bedregal sisters on the requirements (*supra* para. 64). In response, the Flores Bedregal sisters filed a constitutional amparo action that was declared inadmissible *in limine* by the domestic courts.

151. Consequently, the Court considers that the State did not guarantee access to information to the Flores Bedregal sisters, in accordance with Ministerial Resolution No. 316/09 that authorized the access of victims of military dictatorships and their families to the archives, public records, and documents of the Armed Forces, and hindered access to information relevant to determining the truth of what happened to Juan Carlos Flores Bedregal.

### **c. General Conclusion**

152. The Court considers that, in cases of forced disappearance of persons such as the one perpetrated in the context of the interruption of democracy by a coup d'état, access to the information contained in the archives of the Armed Forces is indispensable to clarify State responsibility and satisfy the right to the truth. To this end, the authorities must declassify files and documents of the security forces to obtain evidence or clues relevant to the investigation and clarification of human rights violations. The authorities must also guarantee access to information for the families of victims of forced disappearance, as well as for society as a whole, in order to ensure the right to the truth. In the instant case, the judicial and administrative obstacles faced by the Flores Bedregal sisters in their requests for access to information on the whereabouts of Juan Carlos Flores Bedregal constitute violations of Articles 13(1) and 13(2) of the American Convention in conjunction with Article 1(1) of the same instrument.

153. In relation to the Commission's allegation that Article 98 of the Organic Law of the Armed Forces is incompatible with the obligation to adapt domestic law to the norms of the Convention, the Court argues that the precept on the confidentiality of information provided by the Commander in Chief restricts the right of access to information in cases in which it seeks to clarify the forced disappearance of persons. Therefore, this rule is contrary to the standards established by the case law of this Court on access to information by victims of serious human rights violations and, consequently, the State is responsible for the violation of Article 13 of the Convention, in relation to the obligation to adapt its domestic law established in Article 2 of the same instrument.

154. In addition, the Court finds that the obligation to maintain the confidentiality of the information provided by the Commander in Chief of the Armed Forces affects the independent exercise of the judicial function, since it constitutes an obstacle to the use of such information by the judicial authorities in the framework of the processes presented for its deliberation. Although, according to Article 98 of the Organic Law of the Armed Forces, and as occurred in this case, the military authorities must deliver the information requested by the judicial authorities, the information classified as "inviolable secret" is kept confidential and, therefore, the judicial authority is prevented from transferring it to the parties to the process and using it as part of the argumentation. In view of the foregoing, by virtue of the *iura novit curia*

principle,<sup>199</sup> this Court considers that the rule is incompatible with the principle of judicial independence recognized in Article 8(1) of the American Convention.

155. In view of the foregoing, this Court concludes that, over several decades, the State prevented the relatives of Juan Carlos Flores Bedregal from accessing information relevant to the clarification of his forced disappearance in the context of the coup d'état of July 17, 1980, and restricted the judicial proceedings related to that information. Therefore, it violated the rights to seek and receive information, and to judicial independence enshrined in Articles 13(1), 13(2), and 8(1) of the American Convention, in relation to Articles 1(1) and 2 of that instrument, as well as the right to know the truth, to the detriment of Olga Beatriz, Eliana Isbelia, Verónica, and Lilian Teresa Flores Bedregal.

#### **VII-IV RIGHT TO HUMANE TREATMENT, IN RELATION TO THE OBLIGATIONS TO RESPECT AND ENSURE RIGHTS<sup>200</sup>**

##### **A. Arguments of the Commission and the parties**

156. The **Commission** noted that the forced disappearance of Mr. Flores Bedregal and the lack of clarification have caused a deep sense of pain, anguish, and uncertainty among his relatives, which has been deepened by the long search for justice and the lack of clarification of what happened to him. Consequently, it requested that the State be held responsible for the violation of Article 5(1) of the Convention, in relation to Article 1(1) of the same instrument, to the detriment of Mr. Flores Bedregal's sisters.

157. The **representatives** agreed with the Commission's allegations and argued that the suffering resulting from the lack of information about Mr. Flores Bedregal's whereabouts and impunity for the crime made it impossible for his relatives to complete their mourning. They also alleged that they have been subjected to stigmatization and threats as a result of their search for justice, which has affected the full potential of their mental health. It alleged that, as part of the search for justice, they participated in acts of protest in which they suffered a series of violations of their rights. First, in 2009, Ms. Olga Flores Bedregal was arrested without a warrant by the Police of the Prosecutor's Office during a protest, and was held in a garage of the Prosecutor's Office where she was kept incommunicado. An application for habeas corpus was filed, which was denied by the judicial authority. Second, the victim's relatives and his lawyer were followed, and the Ombudsman's Office requested that protection measures be adopted, but these were never applied. Thirdly, in 2010, both relatives of the alleged victim and other victims of the dictatorship were brutally repressed by the police as they left a mass organized by human rights activists. Other acts of protest included hunger strikes by Mrs. Olga Flores Bedregal in order to achieve the opening of military archives.

158. The **State** alleged that although the Flores Bedregal sisters are relatives of Juan Carlos Flores Bedregal, they do not constitute "injured parties" or "victims" and questioned their "emotional bond." Regarding the alleged threats against Olga Flores and the request made for protection measures, the State alleged that it did not inform the judicial authority or the National Police of any information about threats. On the other hand, it argued that the Commission incurs in a contradiction in pointing out that the relatives of the alleged victim took various steps with public institutions, since there is no evidence to support it. It

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<sup>199</sup> Cf. *inter alia*, *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 163, and *Case of Casierra Quiñonez et al. v. Ecuador. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of May 11, 2022. Series C No. 450, para. 117.

<sup>200</sup> Articles 5 and 1(1) of the American Convention, respectively.

considered that the facts of the case "have been clarified" in the Liability Trials and the ordinary criminal process, as well as published in the facts by the Truth Commission.

## B. Considerations of the Court

159. The Court has repeatedly held<sup>201</sup> that the family of the victims of certain human rights violations may be considered as victims.<sup>202</sup> Similarly, the Court has declared the violation of the right to humane treatment to the detriment of next of kin of victims of certain types of human rights violations. In this sense, it has applied an *iuris tantum* presumption with respect to parents, children, spouses and permanent companions, and siblings, provided that this responds to the particular circumstances in the case.<sup>203</sup> Furthermore, in its most recent case law, the Court considers that, in the context of an forced disappearance, this presumption is also applicable to the sisters and brothers of the disappeared victims, unless the contrary is revealed by the specific circumstances of the case.<sup>204</sup>

160. Additionally, in cases involving the forced disappearance of persons, this Court has affirmed that the violation of the right to mental and moral integrity of the victim's next of kin is a direct result of this phenomenon. The suffering is increased by the constant refusal of the State authorities to provide information on the victim's whereabouts or to conduct an effective investigation in order to clarify what happened.<sup>205</sup> These effects, fully included in the complexity of forced disappearance, will be projected over time as long as the final whereabouts of the disappeared victim remain unclarified.<sup>206</sup>

161. In this regard, the Court recalls its case law to the effect that obstacles to access to information on the truth about the whereabouts of a victim of forced disappearance results in a form of cruel and inhuman treatment for the closest family members.<sup>207</sup> Also, the Tribunal has established that the clarification regarding the whereabouts of the disappeared person is of utmost importance for the next of kin, as this permits the next of kin to relieve their anguish and the suffering caused by the uncertainty of the whereabouts of their disappeared next of kin.<sup>208</sup>

162. In this particular case, the Court notes that the expert opinion rendered by affidavit by Guiomar Hylea Bejarano Gerke referred to the psychological effects caused to the sisters Verónica, Teresa and Olga Flores Bedregal by the forced disappearance of their brother. The expert report confirms that Verónica and Lilian Teresa Flores Bedregal suffer from a deep sense of suffering, anguish, and depression and determines the existence of chronic psychological damage that had an impact on the quality of life of the victims. In the case of Veronica Flores Bedregal, this was increased by the loss of the "symbolic father figure." In

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<sup>201</sup> Cf. *Case of Castillo Páez v. Peru. Merits.* judgment of November 3, 1997. Series C No. 34, fourth operative point, and *Case of Sales Pimenta v. Brazil, supra*, para. 125.

<sup>202</sup> The foregoing, depending on the circumstances of the case, given the suffering suffered as a result of the violations perpetrated against their loved ones, and because of the subsequent actions or omissions of the state authorities in the face of the facts. Cf. *Case of Blake v. Guatemala. Merits.* Judgment of January 24, 1998. Series C No. 36, para. 114, and *Case of Sales Pimenta v. Brazil, supra*, para. 125.

<sup>203</sup> Cf. *Case of Gudiel Álvarez et al. (Diario Militar) v. Guatemala, supra*, para. 286, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 174.

<sup>204</sup> Cf. *Case of Gudiel Álvarez et al. (Diario Militar) v. Guatemala, supra*, para. 286, and *Case of Movilla Galarcio et al. v. Colombia, supra*, para. 174.

<sup>205</sup> *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 121.

<sup>206</sup> Cf. *Case of Goiburú et al. v. Paraguay, supra*, para. 103, and *Case of Vereda La Esperanza v. Colombia, supra*, para. 250.

<sup>207</sup> Cf. *Case of Trujillo Oroza v. Bolivia, supra*, para. 114, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 122.

<sup>208</sup> Cf. *Case of Ticona Estrada et al. supra*, para. 155, and *Case of Chitay Nech et al. v. Guatemala.* Preliminary Objections, Merits, Reparations, and Costs. judgment of May 25, 2010. Series C No. 212, para. 222.

the case of Lilian Teresa Flores Bedregal, in the loss of the "guardian and life guide." In the case of Olga Flores Bedregal, the "loss of her ideological companion," of the "guiding comrade." That is to say, they lost both their sibling and a person with an additional role and/or bond which they came to have with him during their youth and adult years. The expert also noted "the presence of high chronic collective psychological damage, manifested in the Flores Bedregal sisters." It concludes that in all of them, but to a lesser extent, in Olga Flores Bedregal, there is a Persistent Complex Bereavement Disorder (PCBD), Post-Traumatic Stress Disorder (PTSD), Generalized Anxiety Disorder (GAD), and persistent Depressive Disorder (PDD), (the latter present only in sisters Verónica and Lilian Teresa Flores Bedregal)<sup>209</sup> this situation was expressed by the sisters Veronica, Lilian Teresa, and Olga Flores Bedregal. In addition, the representatives argued that the damage was transgenerational.

163. Verónica Flores Bedregal stated in her affidavit that, although she was living in Belgrade at the time of the events, she took several steps with representatives of the Red Cross in Belgrade that were referred to Bolivia through the Red Cross in Switzerland. In addition, she expressed that, during the years that elapsed until her return to Bolivia, her sisters Olga and Eliana "permanently informed her of everything that occurred and what they did to find out the whereabouts of Juan Carlos and that justice [would be] done." At the end of 1986, she returned to Bolivia and immediately joined the Association for Relatives of Detained-Disappeared Persons and Martyrs for National Liberation (ASOFAMD, from the Spanish). She stated that "[i]f I had been living the pain, anguish, uncertainty, impotence, and frustration of not knowing where Juan Carlos was for years, it was in ASOFAMD that little by little I started to understand and assimilate the deep meaning of the forced disappearance of persons and the tragedy that this horrific and merciless crime represents for the families, even more so when it goes unpunished, as in our case."<sup>210</sup>

164. For her part, in her affidavit, Lilian Teresa Flores Bedregal manifested that for "Olga and [her], Juan Carlos was not only our older brother but also our friend and leader, we followed all his steps and accompanied his struggles."<sup>211</sup> In her statement before the Court, Olga Flores Bedregal said "it was very difficult to live like this, first to know what happened with Carlos, and for us it is very difficult to live the mourning when a person is more present than others, because Carlos is present every day; we have to see each other, when we come to this Court, and we are going to go tomorrow as we have to go religiously every July 17, to make those tributes that are wrenching because it is not so much the issue of victimizing because it would give us great pleasure to talk about our brother. We all know that the process of death is going to be inevitable, but it is painful because behind that, there are hidden interests and there is never transparency."<sup>212</sup>

165. The feelings that over the years guided Olga Flores Bedregal's efforts to search for Juan Carlos Flores Bedregal are reflected in the publication of a collection of letters to his disappeared brother: "I keep writing to you because [...] the human psique is prepared for death, just as we are born, we die; but "DISAPPEARED," that category, invented by the military, goes against nature. [...] We have been deprived even of mourning your death [...] denying your death, is denying your presence, that one day you existed, with your clean look and those ideals that you loved more than you loved a girlfriend<sup>213</sup> (capital letters as in the original).

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<sup>209</sup> Expert opinion of Guiomar Hylea Bejarano Gerke rendered by affidavit on February 13, 2020 (case file of evidence, p. 9020 to 9075).

<sup>210</sup> Cf. Statement by Verónica Flores Bedregal, *supra*.

<sup>211</sup> Cf. Statement by Lilian Teresa Flores Bedregal, *supra*.

<sup>212</sup> Cf. Statement by Olga Flores Bedregal, *supra*.

<sup>213</sup> Publication: entitled "Carta inconclusa a mi hermano Carlos" [Unfinished Letter to My Brother Carlos], *supra*.

166. The Flores Bedregal sisters were subjected to acts of intimidation. In her affidavit, Verónica Flores Bedregal stated that she "did not openly receive threats," but received telephone calls to [her] office summoning a Police District on the outskirts of the city with different absurd but frightening pretexts. She didn't show up, nor did she want to tell [her] family, but [her] co-workers witnessed [her] worry and fear." She also mentioned that the lawyers representing them were intimidated and threatened. She indicated that Olga Flores Bedregal was illegally arrested in the framework of a peaceful demonstration against forced disappearances. She also said that in 2010, after a mass in memory of Juan Carlos Flores Bedregal, dozens of police officers attacked people that were leaving the church, causing chaos in the crowd. In addition, in the statements given before a notary public by Verónica and Lilian Teresa Flores Bedregal, they indicated that the sisters suffered harassment and aggression by police officers. It also appears from the file that the Ombudsman's Office requested that measures be adopted to guarantee the safety of the Flores Bedregal sisters in the face of acts of harassment by State officials. Finally, in the public hearing before this Court, Olga Flores, referring to the State, declared that "[s]he would be satisfied if they did not continue its attack."

167. In the specific case, since the forced disappearance of Juan Carlos Flores Bedregal has been established, and following this Court's case law, it is considered to have been proven that the personal integrity of Mr. Flores Bedregal's sisters has been affected, since this is a direct consequence of the disappearance of their relative. For the Court and in relation to the Flores Bedregal sisters, the following has been demonstrated: their emotional bond with Juan Carlos Flores Bedregal; their physical and emotional repercussions following his disappearance; their active role in judicial proceedings, in the search for the whereabouts and remains of their brother and in obtaining access to information from official sources, and in particular from the Armed Forces; the fact that they became the target of acts of harassment because of the persistent claim for the disappearance of their brother. After more than four decades, the lack of clarification of the disappearance has altered their mourning process, perpetuating the suffering and uncertainty. These effects will be projected over time as long as the factors of impunity and the lack of clarification of the final whereabouts of the disappeared victim persist.<sup>214</sup> As the Court has already established in its case law, the violation of the right to the truth about the fate of a disappeared person is a form of cruel, inhuman and degrading treatment for the close family.<sup>215</sup>

168. Based on these considerations, the Court concludes that the State violated the right to humane treatment recognized in Articles 5(1) and 5(2) of the American Convention, in relation to Article 1(1) of the same instrument, to the detriment of Olga Beatriz, Eliana Isbelia, Verónica, and Lilian Teresa Flores Bedregal.

## **VIII REPARATIONS<sup>216</sup>**

169. Based on the Article 63(1) of the American Convention, the Court has indicated that any violation of an international obligation that has caused damage entails the duty to adequately remedy it, and that this provision includes a customary norm that constitutes one

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<sup>214</sup> Cf. *Case of Goiburú et al. v. Paraguay*, *supra*, para. 103, and *Case Rochac Hernández et al. v. El Salvador. Merits, Reparations, and Costs*. judgment of October 14, 2014. Series C No. 285, para. 122.

<sup>215</sup> Cf. *Case of Trujillo Oroza v. Bolivia*, *supra*, para. 114.

<sup>216</sup> Article 64 of the American Convention.

of the main principles of contemporary International Law in relation to a State's responsibility.<sup>217</sup>

170. In this regard, repairing the damage caused by the breach of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which consists of reestablishing the previously existing situation. If this is not feasible, as occurs in most cases of human rights violations, this Court will determine measures to guarantee the rights violated and repair the consequences produced by the infractions.<sup>218</sup> Therefore, the Court has deemed it necessary to grant various forms of reparation measures to comprehensively redress the harm caused. In addition to monetary compensation, measures of restitution, rehabilitation, satisfaction, and guarantees of non-repetition are of particular relevance in addressing the damages inflicted.<sup>219</sup>

171. This Court has established that the reparations must have a causal link with the facts of the case, the declared violations, the proven damages, as well as the measures requested to repair the respective damages. Therefore, the Court must observe such coincidence in order to adjudge make a judgment in accordance with the law.<sup>220</sup>

172. Taking into account the violations of the American Convention declared in the preceding chapters, in light of the criteria established in the Court's case law in relation to the nature and scope of the obligation to make reparations,<sup>221</sup> the Court will analyze the claims presented by the Commission and the representatives, as well as the arguments of the State in this regard, with the aim of subsequently implementing measures to remedy such violations.

### **A. Injured Party**

173. Pursuant Article 63(1) of the Convention, this Court considers the injured party to be anyone who has been declared a victim of the violation of any right. In this case, the Court considers Juan Carlos Flores Bedregal, Olga Beatriz Flores Bedregal, Eliana Isbelia Flores Bedregal (deceased), Verónica Flores Bedregal, and Lilian Teresa Flores Bedregal as "injured parties."<sup>222</sup>

### **B. Obligation to investigate the facts, prosecute, and, where appropriate, punish those responsible and determine the whereabouts of the victim**

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<sup>217</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*. judgment of November 21, 1989. Series C No. 7, para. 25, and *Case Deras García et al. v. Honduras. Merits, Reparations, and Costs*. judgment of August 25, 2022. Series C No. 462, para. 90.

<sup>218</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*, *supra*, para. 26, and *Case of Deras García et al. v. Honduras*, *supra*, para. 91.

<sup>219</sup> Cf. *Case of Cantoral Benavides v. Peru. Reparations and Costs*. judgment of December 3, 2001. Series C No. 88, paras. 79 to 81, and *Case of Deras García et al. v. Honduras*, *supra*, para. 92.

<sup>220</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia*, *supra*, para. 110, and *Case of Deras García et al. v. Honduras*, *supra*, para. 92.

<sup>221</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*, *supra*, paras. 25-27, and *Case of Deras García et al. v. Honduras*, *supra*, para. 93.

<sup>222</sup> Adela Hortensia Villamil, who presented herself as a life partner of Mr. Flores Bedregal, in a separate claim before the Inter-American Commission, does not participate as a victim in this case and, therefore, is not considered as an injured party for the purposes of determining the reparation measures of this judgment. The Court is aware that Ms. Villamil reached a direct agreement with the State that has not been endorsed by the Commission, as a result of which she has already become a beneficiary of satisfaction and pecuniary measures (*supra* footnote 28).

**B.1. Obligation to investigate the facts, issue judgment, and, where appropriate, punish those responsible**

174. The **Commission** asked the Court to order the State to investigate the human rights violations declared in its Merits Report impartially, effectively, and within a reasonable time, in order to clarify the facts completely and identify those responsible, and if necessary, impose the corresponding sanctions.

175. The **representative** asked the Court to order the State to conduct a full, serious, impartial, and effective investigation within a reasonable time into the forced disappearance of Mr. Flores Bedregal. In particular, it requested that legal audits be made in order to fully clarify the facts, identify all those responsible and impose the corresponding sanctions. One of these audits would be on the ordinary criminal process "Public Prosecutor v/ Franz Pizarro Solano et al." In addition, it requested that the obstacles of fact and law that have contributed to impunity in this case be removed, as well as that the victims or their families be given full access and capacity to act at all stages of the investigation and prosecution of those responsible.

176. The **State** argued that criminal proceedings No. 6441/09 aim to establish the location of the remains of Mr. Flores Bedregal, in his capacity as a victim of murder in the dictatorship of Luis García Meza, which was still underway at the time. In relation to the request for a legal audit of the "Public Prosecutor v/ Franz Pizarro Solano et al." process, it alleged that these procedures should have been initiated through complaints in order to constitute disciplinary proceedings, in accordance with the Regulations on Disciplinary Proceedings of the Judiciary, so that the deadlines established for the running of the statute of limitations for such action must be taken into account.

177. As established *supra*, in the process "Public Prosecutor v/ Franz Pizarro Solano et al.," no lines of investigation were followed to clarify the forced disappearance of Juan Carlos Flores Bedregal. The Court notes, however, that as of 2009, pursuant to the judgment of this Court in the case *Ticona Estrada et al. v. Bolivia* on forced disappearance, criminal proceedings were initiated by the Public Prosecutor's Office at the request of the victims of the dictatorship of Luis García Meza Tejada against the perpetrators (No. 6441/09), which is being processed before the Eighth Magistrate's Court on Precautionary Criminal Matters. Juan Carlos Flores Bedregal was included in this process; however, this Court does not know his current status (*supra* para. 90).

178. Taking into account the opening of criminal proceedings for the investigation of disappeared persons from the dictatorship of Luis García Meza Tejada and the case law of the Court,<sup>223</sup> this Court provides that the State must continue or promote and/or reopen, direct, and conclude criminal investigations in a diligent and effective manner in order to fully clarify the facts. In view of the foregoing, the Court rules that the State must, within a reasonable time, promote and continue the investigations necessary to determine the circumstances of what occurred to Juan Carlos Flores Bedregal and, where appropriate, judge and eventually punish all persons responsible for his forced disappearance. In consideration of the seriousness of the facts, it cannot apply laws of amnesty nor make arguments regarding the statute of limitations, nor rely on arguments such as State secrecy or confidentiality of information, which are in fact a pretext to hinder the investigation.

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<sup>223</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 174, and *Case of the Los Josefinos Village Massacre v. Guatemala, supra*, para. 143.

179. Conforming to the constant case law,<sup>224</sup> the Court considers that the State must ensure the full access and capacity to act of the victims or their relatives at all stages of the investigation and prosecution of those responsible, in accordance with domestic law and the rules of the American Convention. Additionally, the results of the proceedings must be publicly disseminated so that Guatemalan society knows the facts which are the object of the present case, as well as those responsible.<sup>225</sup>

**B.2. Determination of the whereabouts and identification and delivery of the remains of the missing victim**

180. The **Commission** asked the Court to order the State to conduct a full, impartial, and effective investigation into the whereabouts of the alleged victim, and if necessary, to adopt the necessary measures to identify and deliver the mortal remains to his relatives.

181. The **representative** also requested that the whereabouts of Mr. Flores Bedregal be established in a complete, impartial, effective manner, and within a reasonable time, and if necessary, that the necessary measures be adopted to identify and deliver his mortal remains to his relatives and that the costs be borne by the State. They requested the participation of the Flores Bedregal sisters and the cooperation of other States and international organizations with experience in the search for disappeared persons.

182. The **State** referred to the work of the Truth Commission as an extrajudicial instance for the location of disappeared persons. In this regard, the State also maintained that on December 23, 2016, a Truth Commission was created by law as an extrajudicial body with access to military and public administration archives to clarify the murders, forced disappearances, torture, arbitrary detentions, and sexual violence, based on political and ideological grounds, that occurred in Bolivia from November 4, 1961, to October 10, 1982. According to the State, the Truth Commission performed its functions from August 21, 2017, to December 20, 2019, and its final report was presented on March 3, 2020, to the Ombudsman's Office and on March 22, 2021, to the Constitutional President of the State, it was also referred to the Public Prosecutor's Office and the Attorney General's Office. Likewise, the State pointed out that said report consists of eleven physical volumes and one thousand sixty-four boxes of information, which to date are only available in the Library of the Plurinational Legislative Assembly.<sup>226</sup>

183. As noted above (*supra* para. 68) exhumations of remains were carried out in 1983 and 1992, and in all cases it was determined that they were not those of Mr. Flores Bedregal. Additionally, in December 2021, a complementary computer declaration and two visual technical inspections were made in the Provincial Terminal of the City of El Alto and in the General Cemetery of La Paz, respectively, as possible burial sites of victims of the military dictatorship, however, they did not yield concrete information about the possible location of the remains of Mr. Flores Bedregal.

184. This Court emphasizes that the victim disappeared 42 years ago, so it is a fair expectation of his next of kin to have the reasonable expectation that his whereabouts would have been identified. It is a necessary reparation measure that generates the correlative duty

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<sup>224</sup> Cf. *Case of the Caracazo v. Venezuela. Reparations and Costs*. Judgment of August 29, 2002. Series C No. 95, para. 118, and *Case of Deras García et al. v. Honduras, supra*, para. 97.

<sup>225</sup> Cf. *Case of the Caracazo v. Venezuela, supra*, para. 118, and *Case of Deras García et al. v. Honduras, supra*, para. 100.

<sup>226</sup> Cf. Law No. 879 "Law on the Truth Commission" of December 23, 2016 (case file of evidence, p. 8648 to 8653). Also what was pointed out by the State, during the public hearing held before the Court on February 10, 2022 and the closing arguments.

for the State to satisfy it.<sup>227</sup> In turn, this allows the family to alleviate the anguish and suffering caused by the uncertainty of the disappearance.<sup>228</sup>

185. Recovering the remains of a disappeared person is extremely important for their family, because it allows them to bury him in keeping with their beliefs, and also to bring closure to the grieving process that they have been experiencing over the years.<sup>229</sup> The Court also considers that both the remains of the disappeared victim and the place where they are found can provide valuable information and evidence about what happened, the perpetrators of the disappearance, and other violations of the American Convention.<sup>230</sup>

186. Consequently, the State must systematically and rigorously search for the whereabouts or remains of Juan Carlos Bedregal, with appropriate and suitable human, technical, and scientific resources within a period of one year from the notification of this judgment. The aforementioned proceedings must be informed to their relatives and, as far as possible, to ensure their presence, so as to guarantee their participation. A communication strategy must be established with the families for the aforementioned proceedings, and a framework for coordinated action must be agreed to ensure their participation, knowledge, and presence, in accordance with the guidelines and protocols in the matter.

187. In the event that the search confirms the death of Juan Carlos Flores Bedregal, his remains must be delivered to his family, after reliable verification of identity, as soon as possible and at no cost to them. In addition, the State must cover the funeral expenses, as appropriate, in accordance with the wishes of the next of kin.<sup>231</sup>

## **C. Measures of rehabilitation, satisfaction, and guarantees of non-repetition**

### **C.1 Rehabilitation**

188. The **Commission** requested that the necessary measures be taken to provide the physical and mental health care of Juan Carlos Flores Bedregal's family. The **representative** requested that victims and their families be provided with effective, immediate, adequate and free medical, psychological or psychiatric treatment, including procedures, diagnoses, and the free supply of required medications, which should be voluntary, which must be mutually agreed upon. The **State** rejected this claim.

189. Due to the nature of the violations of the American Convention declared in this judgment, the **Court** orders the State to provide, free of charge, the appropriate and priority medical and psychological treatment required by Olga Beatriz, Verónica, and Lilian Teresa, all with the surnames Flores Bedregal. Such treatment must be provided upon manifestation of their will, within a period of six months from the notification of this judgment, and for the time necessary to address the conditions derived from the violations declared in this judgment. As long as it is appropriate to the order, the State may grant such treatment through the national health services. The victims mentioned must have immediate and priority

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<sup>227</sup> Cf. *Case of Neira Alegría et al. v. Peru. Reparations and Costs*. Judgment of September 19, 1996. Series C No. 29, para. 69, and *Case of Garzón Guzmán et al. v. Ecuador, supra*, para. 109.

<sup>228</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia, supra*, para. 155, and *Case of Garzón Guzmán et al. v. Ecuador, supra*, para. 109.

<sup>229</sup> Cf. *Case of the "Las Dos Erres" Massacre v. Guatemala, supra*, para. 245, and *Case of the Julien Grisonas Family v. Argentina, supra*, para. 209.

<sup>230</sup> Cf. *Case of the "Las Dos Erres" Massacre v. Guatemala, supra*, para. 245, and *Case of Munárriz Escobar et al. v. Peru, supra*, para. 104.

<sup>231</sup> Cf. *Case of Contreras et al. v. El Salvador, supra*, paras. 191-192, and *Case of Garzón Guzmán et al. v. Ecuador, supra*, para. 110.

access to health benefits, regardless of the time limits that domestic legislation has provided, avoiding obstacles of any kind.

## **C.2. Satisfaction**

### **C.2.1. Publication of the judgment**

190. The **representatives** asked the Court that the State make public a summary of the judgment in written media and broadcast it on television and radio with national coverage. The **Commission** did not take a position on that request. The **State** rejected this claim.

191. The **Court** provides, as it has done in other cases<sup>232</sup>, that the State publish, within a period of six months from the notification of this judgment: a) the official summary of this judgment prepared by the Court, for a single time, in a national media outlet and in the official gazette in a legible and adequate font size, and b) this judgment in its entirety, available for at least one year, on the Ministry of Defense of the Plurinational State of Bolivia officials websites, the Office of the Attorney General of the State, and the Judiciary, in a way that is accessible to the public. The State must inform this Court immediately once it proceeds to make each of the publications ordered, regardless of the one-year term it has to present its first report, provided in the operative paragraph of this judgment.

### **C.2.2. Act of public acknowledgment of international responsibility**

192. The **Commission** requested that satisfaction measures include a public act acknowledging international responsibility. The **representatives** requested that the State carry out an act of recognition of responsibility for forced disappearance consisting of a public and solemn ceremony, presided by the President and the senior officials of the Armed Forces, the Public Prosecution Service, and the Judiciary, in the presence of the victims. It requested that the event be broadcast through the private and public media during prime time and on the front pages of the written media, as well as in government official media outlets. The **State** rejected this claim.

193. Similar to other cases,<sup>233</sup> the **Court** considers it necessary for the State to carry out, within a period of one year from the notification of the judgment, an Act of public acknowledgment of international responsibility in relation to the facts of this case as a measure of reparation and non-repetition of the human rights violations established in the judgment. This act must be carried out through a public ceremony presided by senior state officials and the victim's family and must refer to the human rights violations declared in this judgment. The State must agree with the victims' family or their representatives on the method of compliance with the public act of recognition, as well as the particularities that are required, such as the place and date for it to be held. In addition, the State must broadcast this act through the media in the widest possible way, including broadcasting over radio, television, and social networks of the Ministry of Defense of the Plurinational State of Bolivia, the Attorney General's Office, and the Judiciary.

## **C.3. Non-repetition measures**

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<sup>232</sup> Cf. *Case of Cantoral Benavides v. Peru*, *supra*, para. 79, and *Case of Deras García et al. v. Honduras*, *supra*, para. 108.

<sup>233</sup> Cf. *Case of Cantoral Benavides v. Peru*, *supra*, para. 81, and *Case of Deras García et al. v. Honduras*, *supra*, para. 109.

### **C.3.1. Access to information contained in military archives**

194. The **Commission** requested that the necessary measures be taken for the State to comply with its obligation regarding access to information contained in state archives, including military archives, related to the serious human rights violations committed during the dictatorship of Luis García Meza, and to enact a law and establish institutional mechanisms to guarantee its full and effective exercise. It also requested that the State be ordered to adopt public policies aimed at obtaining, producing, analyzing, reconstructing, organizing, and facilitating access to such information by Mr. Flores Bedregal's family members and society as a whole.

195. The **representative** requested that Bolivia be ordered to establish: a) policies aimed at obtaining, producing, analyzing, reconstructing, organizing, and facilitating the information contained in state archives, including military archives, in accordance with international standards; b) legal and institutional mechanisms to ensure full and effective access to public information; and c) guarantee the right to the truth through a legal framework in accordance with international standards and the best practices in the field.

196. The **State** rejected the claims on the grounds that justice operators, the Truth Commission, and the public administration have access to military archives only by court order.

197. In the analysis on the merits of this case (*supra* paras. 153 and 155) the Court determined that Article 98 of the Organic Law of the Armed Forces of Bolivia runs contrary to the standards established by the Court's case law on access to information by victims of serious human rights violations. Therefore, this Court concluded that the State prevented the relatives of Juan Carlos Flores Bedregal from accessing information relevant to the clarification of his forced disappearance in the context of the coup d'état of July 17, 1980, and restricted the judicial proceedings related to that information, thus violating the rights to seek and receive information, and to the judicial independence enshrined in Articles 13(1), 13(2), and 8(1) of the American Convention, in relation to Articles 1(1) and 2 of the same instrument, as well as the right to know the truth. In view of the foregoing, the State must adopt the legislative, administrative, and any other measures necessary to strengthen the regulatory framework for access to information in cases of alleged human rights violations within a reasonable time, and in particular with regard to the regulations governing the withholding of information under the Organic Law of the Armed Forces when it prevents the clarification of the forced disappearance of persons. In this sense, within the framework of their respective scopes of authority and the corresponding procedural regulations, the state authorities must exercise *ex officio* control of conventionality between the domestic rules and the American Convention in light of the interpretation made by the Inter-American Court in this case.

198. Furthermore, in accordance with the decision of this judgment, the State must lift, within a period of one year from the notification of this judgment, the confidential nature of any documentation related to the forced disappearance of Juan Carlos Flores Bedregal in the context of the events that occurred on July 17, 1980, which are under the Armed Forces and other state entities' control.

199. Likewise, the State must establish a system that allows open digital access to the Truth Commission's Report, within one year from the notification of this judgment, in order to remove the material obstacles to its consultation in the Library of the Plurinational Legislative Assembly.

#### **C.4. Other measures**

200. The **Commission** requested that the State be ordered to adopt the necessary non-repetition measures to prevent similar events from occurring in the future, including effective mechanisms for the search and identification of mortal remains of persons who disappeared during the military dictatorships that occurred in Bolivia. The **representative** requested that the State be ordered to take a series of additional measures of satisfaction and non-repetition: a) to ensure that the Armed Forces pay homage once a year to the memory of an exemplary citizen; (b) to make a biographical film of Juan Carlos Flores Bedregal; (c) to give the name of Juan Carlos Flores Bedregal to a hall of the Plurinational Legislative Assembly, as well as to an environmental education park in the city of Sucre; (d) to create an Institute of Environmental Policy and Ethics focused on generating studies and gathering scientific research to propose environmental policies and legislation; (e) upgrading the Juan Carlos Flores Bedregal School; (d) to create mechanisms for the search for and identification of mortal remains of disappeared persons that occurred during dictatorships; (f) create a Special Search Commission for Mr. Flores Bedregal, which must have appropriate and suitable human, financial and scientific resources to determine the whereabouts of the victim; (g) implement training programs for members of the Public Prosecutor's Office, the National Police, the judiciary and law students on forced disappearance; (h) to create a specialized human rights prosecutor's office; The **State** generally rejected the above claims.

201. With respect to the aforementioned reparation measures requested, the Court considers that the reparations ordered in this Chapter are sufficient and appropriate to repair the violations of the American Convention established in this judgment.

#### **D. Compensation**

##### **D.1. Pecuniary damages**

202. In its case law, the Court has developed the concept of pecuniary damages and the hypotheses under which it must be compensated. This Court has established that pecuniary damages involve "the loss or impairment of the victims' income, expenses made resulting from the events, and pecuniary consequences that have a causal link to the facts of the case."<sup>234</sup>

##### **D.1(1). Consequential damages**

203. The **Commission** also sought compensation for material damage, in the form of fair compensation. The **representatives** requested compensation for other expenses arising from the damage caused by the alleged violations, such as medical expenses and actions to add visibility to the case. The victim's family do not have proof of the aforementioned expenses. Therefore, the representatives asked the Court to determine in equity the amount corresponding to the material damage to be paid to the next of kin, in the amount of USD\$15,000.00 (fifteen thousand United States dollars).

204. The **State** argued that the Flores Bedregal sisters had the possibility of obtaining payment of the consequential damages through a civil proceeding derived from the two judgments issued in the national jurisdiction, and therefore their claim is not viable.

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<sup>234</sup> Cf. *Case of Bámaca Velásquez v. Guatemala. Reparations and costs.* judgment of February 22, 2002. Series C No. 91, para. 43, and *Case of Deras García et al. v. Honduras, supra*, para. 123.

205. The **Court** notes that the representatives did not provide any evidence to prove the consequential damages. The representatives did not specify the nature of the expenses incurred by these events, beyond describing them in general terms. Thus, they did not indicate the approximate amounts of those expenses, or who paid for them. Notwithstanding the foregoing, this Court presumes, as it has done in previous cases<sup>235</sup>, that Mr. Flores Bedregal's next of kin have incurred various expenses in the search for justice in this case.

206. Consequently, this Court establishes, in equity, the sum of USD\$15,000.00 (fifteen thousand United States dollars) for consequential damages in favor of the victims. The State must divide the amount in equal parts and deliver the proportional part to each of the following persons: Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal. The share of deceased persons must be distributed among their heirs.

#### **D.1.2. Loss of Income**

207. The **Commission** requested reparation for the human rights violations in the instant case in the material aspect, including fair compensation. The **representatives** argued that, at the time of the forced disappearance, Mr. Flores Bedregal was 27 years old and serving as a deputy, so multiplying his monthly salary of USD\$3,000 (three thousand United States dollars) by the number of months up to 52 years, which corresponds to the life expectancy of the time, this item would amount to USD\$975,000.00 (nine hundred and seventy-five thousand United States dollars), and requested the Court to order the State to pay that amount.

208. The **State** reiterated that the Flores Bedregal sisters had the possibility of obtaining payment of lost profits through a civil proceeding derived from the two judgments issued in the national jurisdiction. Therefore, it stated that the claim of the Flores Bedregal sisters is not viable.

209. According to the allegations of the parties, Juan Carlos Flores Bedregal was serving as a deputy in the National Congress at the time of the facts. However, there is not enough evidence relating to his income. Therefore, the Court decides to establish, in equity, the sum of USD\$100,000.00 (one hundred thousand United States dollars), for loss of income in favor of Juan Carlos Flores Bedregal. This amount must be distributed in equal parts between Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal. The share of deceased persons shall be distributed among their heirs. With respect to Ms. Adela Hortensia Villamil, who does not appear as an injured party in this case, the Court understands that she reached a direct agreement with the State on measures of satisfaction and compensation.<sup>236</sup>

#### **D.2. Non-pecuniary damage**

210. Regarding the non-pecuniary damages, the **Commission** requested reparation for the moral human rights violations in this case, including fair compensation. For their part, the

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<sup>235</sup> Cf. *Case of Human Rights Defender et al. v. Guatemala*, supra, para. 271, and *Case of Deras García et al. v. Honduras*, supra, para. 125.

<sup>236</sup> In this regard, as reported by the State, the agreement apparently consists of a pecuniary reparation consisting of: a) a single payment, which is in progress for material reparation; b) a single payment for the death of the former deputy in the performance of his duties, and c) a monthly life annuity, which was in progress in payrolls, as of January by the National Distribution Service (SENASIR).

**representative** requested the Court to order the State to pay two amounts for non-pecuniary damages. In the first place, on the grounds of the damage caused to the victim's relatives by reason of the disappearance, stigmatization and impunity suffered by the systematic denial of the forced disappearance, as well as by the effects on the life and mental health project of the relatives, it requested compensation for the non-pecuniary damages of USD \$ 300,000.00 (three hundred thousand United States dollars) in favor of Mr. Flores Bedregal, which must be distributed equally among his sisters. Secondly and with respect to the Flores Bedregal sisters, for the same amount, in favor of each of the four Flores Bedregal sisters and, in the case of Ms. Eliana, who died in 2017, that amount must be distributed among the heirs.

211. The **State** argued that the request for payment described for the alleged violations against Mr. Flores Bedregal is unfeasible, because the Court cannot rule on facts that occurred before the recognition of its jurisdiction by the State, in addition to the fact that it was demonstrated that there are no violations of the rights enshrined in Articles 8, 13, and 25 of the Convention. On the other hand, it was established in judicial proceedings carried out in Bolivia that Mr. Flores Bedregal is a victim of murder and not forced disappearance, a crime that was investigated and punished. Similarly, it ruled in relation to the amount described for non-pecuniary damages for each of the Flores Bedregal sisters.

212. In its case law, the Court has developed the concept of non-pecuniary damage and the hypotheses under which it must be compensated. The Court has established that non-material damage includes "both the suffering and distress caused to the direct victims and their next of kin, and the impairment of values that are highly significant to them, as well as other sufferings that cannot be assessed in financial terms."<sup>237</sup>

213. Because this judgment established the commission of serious human rights violations by the forced disappearance of Juan Carlos Flores Bedregal by state authorities in violation of Articles 1(1), 3, 4(1), 5(1), 5(2), and 7(1) of the American Convention, and the breach of Article I.a) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Juan Carlos Flores Bedregal, the Court considers it appropriate to order compensation for non-pecuniary damage, in equity, in the amount of USD\$100,000.00 (one hundred thousand United States dollars) in favor of Mr. Flores Bedregal. The Court considers that this amount should be distributed in equal parts between Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal. The share corresponding to deceased persons shall be distributed among their heirs.

214. On the other hand, with regard to the relatives of the disappeared person, Juan Carlos Flores Bedregal, who are also victims of the instant case, and considering the circumstances of the case *sub judice*, for the suffering that the committed violations caused to his sisters, for the search for justice, the prevailing impunity in the case regarding the forced disappearance of Mr. Flores Bedregal, as well as the changes in their living conditions, the lack of access to information and their effects on humane treatment and the other consequences of an immaterial or non-pecuniary nature that they suffered, the Court considers it pertinent to establish compensation, in equity, in the amount of USD \$ 50,000.00 (fifty thousand United States dollars) for non-pecuniary damage, in favor of each of the sisters of Juan Carlos Flores Bedregal, namely: Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal. The share of deceased persons must be distributed among their heirs.

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<sup>237</sup> *Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala. Reparations and Costs.* Judgment of May 26, 2001. Series C No. 77, para. 84, and *Case of Deras García et al. v. Honduras, supra*, para. 123.

## E. Costs and Expenses

215. The **representative** requested:

- a) Regarding the domestic judicial procedures: they incurred the payment of more than twelve years of the duration of the ordinary criminal process, including the expenses for the promotion of judicial and extrajudicial investigation measures, exhumations, administrative procedures before different authorities, as well as the expenses of transfer from the city of La Paz to the city of Sucre in the cassation phase before the Supreme Court of Justice, stamps, among other expenses detailed in the ESAP (Higher School of Public Administration, from the Spanish), for which a compensation was requested in the amount of USD\$25,029.00 (twenty-five thousand twenty-nine United States dollars).
- b) Regarding the procedure before the Commission, the victims incurred expenses of legal advising with different lawyers, expenses of sending documents for a period of twelve years, attending various meetings with the aim of reaching a friendly settlement in the city of Santa Cruz de la Sierra. There is no proof of these expenses, therefore, the Court was asked to set, in equity, a compensation of USD \$10,000.00 (ten thousand United States Dollars).
- c) Expenses for legal counsel on the litigation before the Inter-American Court, amounting to USD\$15,000.00 (fifteen thousand United States dollars), according to the litigation fee contract signed between the victims and the representative Rafael Humberto Subieta Tapia, was paid in three installments, to be reimbursed to the Flores Bedregal sisters. They requested that the full payment described for legal counsel and representation before the Court be ordered. Due to the complexity of the case and the large volume of the background information, among other things it was determined to add to the team the representation of Karinna Fernández Neira and André Lange Schulze, as of July 1, 2019, for which it was requested that the State be ordered to pay USD \$10,000.00 (ten thousand United States Dollars) and USD \$5,000.00 (five thousand United States Dollars), respectively, for the work carried out in the defense of human rights.
- d) Expenses subsequent to the filing of the brief of applications and arguments in the amount of approximately USD \$3,746.60 (three thousand seven hundred and forty-six United States dollars and sixty cents), which must be reimbursed to the victims. Additionally, they requested expenses related to food and transportation for Karinna Fernández Neira in the amount of USD\$500.00 (five hundred United States dollars) and for André Lange Schulze in the amount of USD\$580.00 (five hundred and eighty United States dollars), which must be paid to each of them.
- e) Future expenses that may be incurred in the remaining proceedings before the Court and in the stage of compliance with the judgment issued by the Court, both internationally and nationally. In consideration of the above mentioned, it requested that the Court provide the opportunity to present updated figures and receipts regarding the expenses incurred during the contentious process.

216. The **State** argued that the representatives did not base their argument on legal or jurisprudential grounds that oblige the State to cover the stage of monitoring of compliance with an eventual condemnatory judgment, so it must be rejected.

217. The **Court** reiterates that, pursuant to its case law,<sup>238</sup> costs and expenses are part of reparations, since the activity carried out by the victims in their search for justice, both nationally and internationally, involves expenditures that must be compensated when the international liability of the State is declared by means of a condemnatory judgment. Turning to the reimbursement of costs and expenses, it is up to the Court to prudently assess their scope, which includes expenses before the authorities of domestic jurisdiction, as well as those incurred in the course of the proceedings before the inter-American system, taking into account the circumstances of the specific case and the nature of the international jurisdiction for the protection of human rights. This assessment can be made based on the principle of equity and taking into account the expenses indicated by the parties, provided that their quantum is reasonable.<sup>239</sup>

218. In this case, the representative requested reimbursement of costs and expenses incurred by the relatives and representatives of Juan Carlos Flores Bedregal; however, they did not present any evidentiary support on the expenditures incurred in the domestic jurisdiction, only making a generic allusion thereto. Regarding the proceedings before the Commission and the Court, it also did not provide the respective documents, except for some related to the proceedings before the Court, and in particular, certain expenses incurred after the submission of the brief of applications and arguments. Additionally, the representatives requested the sum of USD\$10,000.00 (ten thousand United States dollars) for the work carried out in the defense in this case as of July 1, 2019, to be paid to Karina Fernández Neira and the sum USD\$5,000.00 (five thousand United States dollars) to André Lange Schulze.

219. The Court decides to establish, in equity, the amount of USD\$40,000.00 (forty thousand United States dollars), in favor of the Flores Bedregal sisters, for reimbursement of costs and expenses for the work carried out in litigation of the case at the domestic and international levels. The established amount is to be divided in equal parts between Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa Flores Bedregal. The share corresponding to deceased persons shall be distributed among their heirs. Likewise, the Court decides to fix, in equity, the amount of USD\$16,050.00 (sixteen thousand fifty United States Dollars), for reimbursement of costs and expenses, for the work carried out in the litigation of the case at the international level. The established quantity must be paid out as follows: USD\$10,500.00 (ten thousand five hundred United States dollars) to Karinna Fernández Neira, and USD\$5,550.00 (five thousand five hundred and fifty United States dollars) to André Lange Schulze.

220. The Court considers that, in the procedure for monitoring compliance with this judgment, it may provide that the State reimburse the victims or their representatives for the reasonable expenses incurred at that stage of the proceedings.

#### **F. Access to the Victims' Legal Assistance Fund**

221. In this case, the merits granted the necessary financial assistance to cover the travel and lodging expenses, necessary for the representative Rafael Humberto Subieta Tapia and Olga Beatriz Flores Bedregal, to appear before this Court to make the defense and render their statements, respectively, at the public hearing to be held in this case, as well as the reasonable expenses of: i) formalization and sending of the declarations by affidavit, which correspond to the declarations of Verónica and Lilian Teresa Flores Bedregal; ii) and the costs of carrying out, formalizing and sending three expert opinions that must be presented by

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<sup>238</sup> Cf. *Case of Garrido and Baigorria v. Argentina. Reparations and Costs*. Judgment of August 27, 1998. Series C No. 39, para. 82, and *Case of Deras García et al. v. Honduras, supra*, para. 131

<sup>239</sup> Cf. *Case of Garrido and Baigorria v. Argentina. Reparations and Costs, supra* para. 82, and *Case of Deras García et al. v. Honduras, supra*, para. 131.

affidavit, which correspond to Federico Andrés Paulo Andreu Guzmán, Guiomar Hylea Bejarano Gerke, and Marcelo Pablo Pacheco Camacho.

222. In a note from the Secretariat of the Court of April 1, 2022, a report was sent to the State on the expenditure made in application of the Victims' Legal Assistance Fund for in this case, which amounted to the sum of USD\$6,641.79 (six thousand six hundred and forty-one United States Dollars and seventy-nine cents) and, pursuant to Article 5 of the Court's Rules of Procedure on the Operation of the Fund, a period of time was granted for Bolivia to submit any observations it deemed pertinent. The State presented its observations on the FALV report on April 13, 2022, in which it indicated that the amounts disbursed are excessive, due to the statements made before a notary public by Lilian Teresa and Verónica, both Flores Bedregal, under the Plurinational Notarial Tariff (Administrative Resolution N0.013/2015 of May 27, 2015) which establishes that the cost of a voluntary declaration is Bs.50 (fifty Bolivianos). It also said that the amounts disbursed by the two expert reports (psychological evaluation, which according to the table includes a forensic expert opinion) on Ms. Veronica, Teresa, and Olga, all with the surnames Flores Bedregal, are excessive, since, according to the Fees of the College of Psychologists of La Paz, the cost of each expert is Bs.3,500.00 (three thousand five hundred Bolivianos).

223. Regarding the State's observations, the Court notes that in reference to the fee charged for voluntary declaration (notarial form) by the professional in charge of the service, it coincides with the amount established in the tariff table of the DIRNOPLU (Directorate of Plurinational Notaries, from the Spanish) to which the State refers. However, given the length of the affidavit, this Court understands that the costs of professional and notarial services entail additional costs, so it considers that the amounts accredited by the statements rendered before a notary public are within reasonable standards for such actions. On the other hand, this Court notices that the State sent a tariff schedule from the "Colegio de Psicólogos" (College of Psychologists) of La Paz for Management 2022, however, the costs that were reimbursed by the Court for this case, with regard to expert opinions, date from November 2019 and March 2020. In addition, the Court observes that the tariff schedule establishes the cost of expert opinions per person and, in this case, received two expert reports authorized to be covered by the FALV, each of which contains the evaluation of three victims.

224. In light of Article 5 of the Rules of Procedure of the Fund, due to the violations declared in this judgment and that the requirements for eligibility for the Fund were met, the Court orders that the State reimburse the Fund for the amount of USD\$6,641.79 (six thousand six hundred and forty-one United States dollars and seventy-nine cents) for the necessary expenses incurred. This amount must be reimbursed within six months of notification of this judgment.

### **G. Method of compliance with the ordered payments**

225. The State shall pay the compensation for pecuniary and non-pecuniary damage and the reimbursement of costs and expenses established in this judgment directly to the person(s) indicated therein, within a period of one year from the notification of this judgment, without prejudice to the possibility of advancing full payment within a shorter period, in the terms of the following paragraphs.

226. In the event that the beneficiary has died or dies before the corresponding compensation has been paid, the compensation shall be paid directly to his or her heirs in keeping with the applicable domestic law.

227. The State must comply with its obligations, making payment in United States dollars or their equivalent in national currency, using for the respective calculation the market exchange rate published or calculated by a relevant banking or financial authority, on the date closest to the day of payment.

228. If, for reasons attributable to the beneficiary of the compensation or their heirs, it is not possible to pay the amounts determined within the indicated period, the State shall deposit said amounts to them in an account or certificate of deposit in a financially sound Salvadoran financial institution, in U.S. dollars, and under the most favorable financial conditions permitted by law and banking practice. If the corresponding compensation is not claimed after ten years have elapsed, the amounts will be returned to the State with the accrued interest.

229. The respective amounts set out in this judgment as compensation for pecuniary and non-pecuniary damages, and the reimbursement of costs and expenses, must be paid to said persons in full, in accordance with this judgment, without any reductions arising from possible tax obligations.

230. If the State falls into arrears with its payments, including the reimbursement of expenses to the Victims Legal Assistance Fund, it shall pay interest on the amount owed corresponding to Bolivia bank interest rate on arrears.

## **IX OPERATIVE PARAGRAPHS**

231. Therefore,

### **THE COURT**

#### ***DECIDES,***

#### **unanimously, to:**

1. Dismiss the preliminary objections to lack of jurisdiction *ratione temporis* and *ratione materiae*, pursuant to paragraphs 19 to 23 of this judgment.
2. Dismiss the preliminary objection of non-exhaustion in relation to the request for reparation, pursuant to paragraphs 29 to 31 of this judgment;

#### **DECLARES:**

unanimously that:

3. The State is responsible for the forced disappearance of Juan Carlos Flores Bedregal in violation of the rights to recognition to the juridical personality, life, humane treatment, and personal liberty enshrined in Articles 3, 4(1), 5(1), 5(2), and 7(1) of the American Convention on Human Rights, in relation to the provisions of Article 1(1) of the same instrument, and Article I.a) of the Inter-American Convention on The Forced Disappearance of Persons to the detriment of Juan Carlos Flores Bedregal, as established in paragraphs 80 to 87 of this judgment.

4. The State is responsible for the violation of judicial guarantees and judicial protection enshrined in Articles 8(1) and 25(1) of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of the same instrument, as well as the right to know the truth and the breach of the obligation enshrined in Articles I.b) and III of the Inter-American Convention on Forced Disappearance of Persons to the detriment of Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal, in accordance with the provisions of paragraphs 108 to 123 of this judgment.

5. The State is responsible for the violation of the rights to access to information and to judicial guarantees, established in Articles 13(1), 13(2), and 8(1) of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of that instrument, as well as the right to know the truth, to the detriment of Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa Flores Bedregal, pursuant to paragraphs 141 to 155 of this judgment.

6. The State is responsible for the violation of the right to humane treatment, established in Article 5(1) and 5(2) of the American Convention on Human Rights, in relation to Article 1(1) of that instrument, to the detriment of Olga Beatriz, Verónica, Eliana Isbelia, and Lilian Teresa, all with the surnames Flores Bedregal, as established in paragraphs 162 to 168 of this judgment.

7. The State is not responsible for the violation of the right of association and political rights, established in Articles 16 and 23 of the American Convention on Human Rights, as established in paragraph 88 of this judgment.

**AND ESTABLISHES:**

unanimously that:

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

9. The State shall conduct investigations to clarify the circumstances of the forced disappearance of Juan Carlos Flores Bedregal within a reasonable time of notification of this judgment, as established in paragraphs 177 to 179 of this judgment.

10. The State shall conduct investigations on the whereabouts of Juan Carlos Flores Bedregal within one year of notification of this judgment, as established in paragraphs 183-187 of this judgment.

11. The State shall provide victims with medical and psychological rehabilitation measures within six months of notification of this judgment, as established in paragraph 189 of this judgment.

12. The State shall make the publications, within six months of the notification of this judgment, as established in paragraph 191 of this judgment.

13. The State shall perform, within one year of notification of this judgment, a public act of acknowledgment of international responsibility, as established in paragraph 193 of this judgment.

14. The State shall adopt, within a reasonable time of notification of this judgment, the legislative, administrative, and any other measures necessary to strengthen the regulatory framework for access to information in cases of alleged human rights violations, and in

particular with regard to the regulations governing the withholding of information under the Organic Law of the Armed Forces when it prevents the clarification of the forced disappearance of persons, as established in paragraph 197 of this judgment.

15. The State shall lift the confidential nature of any documentation related to the forced disappearance of Juan Carlos Flores Bedregal, within one year of the notification of this judgment, as established in paragraph 198 of this judgment.

16. The State shall establish a system that allows open digital access to the Report of the Truth Commission, within one year of the notification of this judgment, as established in paragraph 199 of this judgment.

17. The State shall pay, within one year from the notification of this judgment, the amounts established in paragraphs 206, 209, 213, 214, and 219 of this judgment, as compensation for pecuniary and non-pecuniary damage, and for the reimbursement of costs and expenses, under the terms of paragraphs 205, 212, 218, and 220 of this judgment.

18. The State shall reimburse, within a period of six months from the notification of this judgment, to the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights, the amount disbursed during the processing of this case, under the terms of paragraphs 221-224 of this judgment.

19. The State shall submit, within a period of one year from the notification of this judgment, a report to the Court on the measures adopted to comply with it.

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

**Written in Spanish in Maldonado, Uruguay, on October 17, 2022.**

IAHR Court. *Case of Flores Bedregal et al. v. Bolivia. Preliminary Objections, Merits, Reparations, and Costs. judgment of October 17, 2022. judgment adopted in Maldonado, Uruguay.*

Ricardo C. Pérez Manrique  
President

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Nancy Hernández López

Verónica Gómez

Patricia Pérez Goldberg

Rodrigo Mudrovitsch

Pablo Saavedra Alessandri  
Secretary

So ordered,

Manrique

Ricardo C. Pérez  
President

Pablo Saavedra Alessandri  
Secretary