

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

OF NOVEMBER 14th, 2017

**REIMBURSEMENT OF THE VICTIMS' LEGAL ASSISTANCE FUND
CASES OF BOYCE *ET AL.* AND DACOSTA CADOGAN V. BARBADOS**

HAVING SEEN:

1. The Judgments on the preliminary objections, merits, reparations and costs (hereinafter "the Judgments") issued by the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal") on November 20, 2007¹ in the case of *Boyce et al.* and on September 24, 2009² in the case of *Dacosta Cadogan*, both against the State of Barbados (hereinafter "the State" or "Barbados"). The Tribunal declared in both cases the State's international responsibility because of, *inter alia*, the mandatory death penalty to which Mr. Tyrone DaCosta Cadogan, as well as Lennox Ricardo Boyce, Jeffrey Joseph, Frederick Benjamin Atkins and Michael McDonald Huggins, were sentenced to under Section 2 of the "Offences Against the Person Act 1994", which prescribed death penalty as the mandatory punishment for the crime of murder. The Court considered this to be in contravention of the prohibition of the arbitrary deprivation of the right to life recognized in Article 4(1) of the Convention, as it failed to individualize the sentence in conformity with the characteristics of the crime, as well as the participation and degree of culpability of the accused.

2. The order issued by the President of the Court on August 3rd, 2015, through which the request of the victims, submitted by their representatives (hereinafter "the victims' representatives")³ during the stage of monitoring compliance with judgment, to

¹ *Cfr. Case of Boyce et al. v. Barbados. Preliminary Objection, Merits, Reparations and Costs.* Judgment of November 20, 2007. Series C No. 169. The full text of the Judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_169_ing.pdf. The Judgment was notified to the State on December 17th, 2007.

² *Cfr. Case of Dacosta Cadogan v. Barbados. Preliminary Objections, Merits, Reparations, and Costs.* Judgment of September 24, 2009. Series C No. 204. The full text of the Judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_204_ing.pdf The Judgment was notified to the State on October 20th, 2009.

³ The representatives of the victims are lawyers of the firm Simons Muirhead & Burton, based in London, among them Mr. Saul Lehrfreund. Mr. Ryan Moseley, a lawyer in Barbados, is also a representative.

be granted access to the Victims' Legal Assistance Fund of the Inter-American Court (hereinafter "Victims' Fund")⁴, was declared admissible.

3. The private hearing on monitoring compliance held on September 3rd, 2015, at the seat of the Court⁵.

4. The note of the Secretariat of the Court of January 27, 2017, whereby, following instructions of the President of the Tribunal, the State was granted a period of time to present the observations it deemed pertinent with respect to the expenditures made in application of the Victims' Fund during the stage of monitoring compliance of the present cases.

CONSIDERING THAT:

1. In exercising its jurisdictional function of monitoring compliance with its decisions⁶, the Court has been monitoring the execution of the Judgments issued in the *Cases of Boyce et al.* and *Dacosta Cadogan*, both against Barbados, respectively in November 2007 and September 2009 (*supra* Having Seen paragraph 1). During the stage of monitoring compliance with judgment, the Victims' representatives requested access to the Victims' Fund⁷ in order to cover certain expenses related to their participation in the hearing on monitoring compliance (*infra* Considering paragraph 2)⁸.

2. Through the Order issued on August 3rd, 2015 (*supra* Having Seen paragraph 2), the President of the Court declared admissible the Victims' representatives request to receive support from the Victims' Fund, in order to cover the expenses in which they incurred because of the cancellation of their airline tickets for their appearance at the hearing on monitoring compliance, due to the its suspension at the request of the State. The hearing was scheduled for July 1st, 2015 and seven days before Barbados requested that it be deferred. The President assessed that the application complied with the requirements regarding a lack of sufficient economic resources of the victims and that the requested support should be used to cover reasonable and necessary expenses, given that the expenses were related to the cancellation of the airline tickets due to the postponement of the hearing, so that the Death Penalty Project could

⁴ Cfr. *Case of DaCosta Cadogan and Boyce et al. v. Barbados. Victims' Legal Assistance Fund*. Order of the President of the Inter-American Court of Human Rights of August 3rd, 2015, available at: http://www.corteidh.or.cr/docs/asuntos/dacostaboyce_3_08_15_eng.pdf.

⁵ The following persons appeared at the hearing: a) on behalf of the victims: Andrew Pilgram QC and Saul Lehrfreund, and b) on behalf of the Inter-American Commission: Silvia Serrano Guzmán. Also, the Court approved for Jennifer Edwards, Attorney General of the State, and Charles Leacock, Director of the Public Prosecutor's Office, both on behalf of the State, to participate in the hearing through videoconference.

⁶ Authority that also derives from the provisions of articles 33, 62.1, 62.3 and 65 of the American Convention and 30 of its Statute and is regulated in article 69 of its Rules of Procedures.

⁷ In 2008, the General Assembly of the Organization of American States created the Legal Assistance Fund of the Inter-American Human Rights System with the "purpose [...] to facilitate access to the [I]nter-American human rights system by persons who currently lack the resources needed to bring their cases before the system". AG/RES. 2426 (XXXVIII-O/08), Resolution adopted by the Assembly General of the OAS during the XXXVIII Ordinary Period of Sessions of the OAS, in the fourth plenary session, held on June 3rd, 2008, "Establishment of the Legal Assistance Fund of the Inter-American Human Rights System", Operative Paragraph 2.a), and CP/RES. 963 (1728/09), Resolution adopted on November 11th, 2009 by the Permanent Council of the OAS, "Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System", article 1.1.

⁸ Cfr. *Case of DaCosta Cadogan and Boyce et al. v. Barbados*, *supra* footnote 4, Considering paragraphs 2 and 3.

maintain the capacity to cover the expenses that would be generated by re-acquiring airline tickets to attend the hearing that was rescheduled for September 3rd, 2015⁹.

3. The State had the opportunity to present its observations regarding the expenditures made in relation with the appearance at the private hearing (*supra* Having Seen paragraph 3), which amounted to US\$ 1,999.60 (one thousand nine hundred and ninety nine United States dollars with sixty cents). Barbados did not submit observations in this regard.

4. Given that in the Judgments the Court found the State responsible for violations to the Convention (*supra* Having Seen paragraph 1) and of the situation assessed by the President on the Order that approved the support of the Victims' Fund during the state of monitoring compliance with judgment (*supra* Considering paragraph 2), pursuant to Article 5 of the Rules of said Fund, this Court deems it appropriate to order the responsible State to reimburse to the Victims' Fund the expenditures indicated (*supra* Considering paragraph 3) in the amount of US\$ 1,999.60 (one thousand nine hundred and ninety nine United States dollars with sixty cents) for the expenses made. This amount must be reimbursed to the Inter-American Court within a period of six months, counted from the notification of this Order.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in the exercise of its authority to monitor compliance with judgment, pursuant to Articles 33, 62.1, 65, 67 and 68.1 of the American Convention on Human Rights, 24, 25 and 30 of its Statute, 31.2 and 69 of its Rules of Procedure and 5 of the Rules of the Victims' Legal Assistance Fund,

DECIDES:

1. To order the State of Barbados to reimburse to the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights, the amount indicated in the Considering paragraph 4 of this Order, within six months of its notification.

2. To require the State of Barbados to inform the Inter-American Court of Human Rights, within seven months from the notification of this Order, of the steps taken to effectively comply with its obligation to reimburse the Victims' Legal Assistance Fund with the amount ordered in the first operative paragraph of this Order.

3. To require the Secretariat of the Court to notify this Order to the Victims' representatives, to the State of Barbados, and to the Inter-American Commission on Human Rights.

⁹ Cfr. *Case of DaCosta Cadogan and Boyce et al. v. Barbados*, *supra* footnote 4, Considering paragraphs 10 to 12.

Inter-American Court of Human Rights. *Cases of Boyce et al. and of Dacosta Cadogan V. Barbados*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 14, 2017.

Roberto F. Caldas
President

Eduardo Ferrer Mac-Gregor Poisot

Eduardo Vio Grossi

Humberto Antonio Sierra Porto

Elizabeth Odio Benito

Eugenio Raúl Zaffaroni

L. Patricio Pazmiño Freire

Pablo Saavedra Alessandri
Registrar

So ordered,

Roberto F. Caldas
President

Pablo Saavedra Alessandri
Registrar