

**ORDER OF THE**  
**INTER-AMERICAN COURT OF HUMAN RIGHTS**  
**OF MAY 30, 2013**  
**CASE OF RODRÍGUEZ VERA *ET AL.* v. COLOMBIA**

**HAVING SEEN:**

1. The brief of February 9, 2012, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") this case against the Republic of Colombia (hereinafter "Colombia" or "the State").
2. The brief of June 25, 2012, in which the representatives of the presumed victims (hereinafter "the representatives") presented their brief with pleadings, motions and evidence in relation to this case (hereinafter "the pleadings and motions brief").
3. The brief of November 24, 2012, in which the State presented its brief with preliminary objections, its answer to the submission of the case, and its observations on the pleadings and motions brief (hereinafter "answering brief"). In this brief the State asked that a special hearing be held on the preliminary objections and, in particular, on the alleged nullity of an act of the Commission.
4. The briefs of March 17, 2013, in which the Inter-American Commission and the representatives presented their respective observations on the preliminary objections filed by the State.
5. The communication of March 22, 2013, in which the State reiterated its request "for an independent hearing, prior to the hearing on merits, reparations and costs, under Article 42(5) of the Rules of Procedure, in order to present the legal and factual grounds on which the objections and the nullity alleged by the State are founded."
6. The notes of the Secretariat of the Court of April 10, 2013, in which it advised the parties and the Commission that the Court would be informed of the State's request for the pertinent effects, and the Inter-American Commission and the representatives were granted a specific time frame for presenting any observations they deemed pertinent on the State's request (*supra* having seen paragraphs 3 and 5).
7. The briefs of April 17, 2013, in which the Inter-American Commission and the representatives presented their observations on the State's request.

**CONSIDERING THAT:**

1. Article 42(5) of the Court's Rules of Procedure establishes that "[w]hen the Court considers it essential, it may convene a special hearing on the preliminary objections presented, after which it shall rule thereon." Furthermore, Article 42(6) stipulates that "[t]he Court may decide upon the preliminary objections, the merits, and the reparations and costs of the case in a single judgment."

2. In its answering brief, Colombia indicated that "[g]iven the characteristics of the matters that the State is submitting as preliminary objections, the State requests [...] that Article 42(5) and [42](6) of the Rules of Procedure [of the Court] be applied." Moreover, it made the same request in relation to the alleged nullity "of the communication whereby the Commission [...] advised that it was joinder the admissibility and merits stages," and also of "Report on Admissibility and Merits No. 137/11, because this document is the result of [the said decision to joinder the stages]." According to the State, this joinder meant that Colombia did not have certainty about the purpose of the dispute. Consequently, it indicated that, given the characteristics of the alleged nullity, it was requesting that the Court "decide to hold a hearing that would allow the State to explain to the Court the legal and factual grounds that led it to request this procedural action."

3. In the brief received on March 22, 2013, Colombia reiterated its request to hold "an independent hearing, prior to the hearing on [the eventual] merits, reparations and costs," indicating that "[t]he hearing was essential to avoid a serious infringement of the right to defense of the Colombian State, as a result of the procedural flaws during the quasi-judisdictional proceedings previously exhausted by the Commission." In addition, it indicated that "the extremely complex nature of the case in question requires that the Court examine the State's requests concerning nullity and objections before dealing with the merits and the reparations and that, following this, it hold an independent hearing that allows the State to present its substantive arguments on the case, and the Court to focus on examining them."

4. The representatives argued that, according to the Court's Rules of Procedure, the holding of a special hearing for the preliminary objections "constitutes an exception." Thus, they indicated that "the State has not substantiated the special circumstances of the case that would justify a differentiated treatment of matters of admissibility." For the representatives, the State's arguments "do not constitute an exceptional circumstance that would warrant differentiated treatment in this case." In addition, they underlined that "28 years have passed since the acts were committed, and during this time, the victims and their next of kin have been waiting to obtain justice." The representatives therefore asked that the Court reject the State's request.

5. Meanwhile, the Commission indicated that the Court's Rules of Procedure reveal that holding a special hearing for the preliminary objections is exceptional. It considered that this "interpretation is consistent with the practice [...] for more than 11 years, [according to which] the Inter-American Court has heard the matters relating to the preliminary objections and those relating to the merits, reparations and costs at a single hearing." It also indicated that "to accept that the concept of 'essential' in the [...] Rules of Procedure is related to 'due process' for the States, would be equivalent to indicating that the reiterated application of the regulatory norms that permit holding a hearing, as well as the well-established practice [of the Court], have been contrary to the principle of due process." In addition, the Commission considered that the State had not explained "the specific reasons why the [...] complexity [of the case] justifies the separation of the hearings." Based on the foregoing, the Commission considered that "there are insufficient reasons to deal with this case in a way that differs from the Court's consistent practice."

6. This Court has established that, based on the principle of procedural economy, the Court is wont to hold a single hearing on preliminary objections and the eventual stages of merits, reparations and costs, except in extremely exceptional cases when it considers it essential, as indicated in the Court's Rules of Procedure.<sup>1</sup> Thus, even though the Court's practice in recent years has consisted in receiving, in a single oral proceeding, the testimony provided by the parties, as well as their arguments on the preliminary objections and on the eventual merits, reparations and costs,<sup>2</sup> the Court is empowered to convene a separate hearing on the preliminary objections if it considers this pertinent, under the above-mentioned Article 42(5). Taking into account the scope of this case and having considered the corresponding arguments and observations of the parties and of the Commission, the Court finds it desirable to convene the parties and the Commission to a special hearing on the preliminary objections filed by the State in this case. As established in the said Article 42(5) of its Rules of Procedure, the Court considers that, during the said special hearing on preliminary objections, arguments should be presented on all the preliminary objections filed by the State, including the so-called "nullity request" with regard to the proceedings before the Commission.

7. Furthermore, in order not to affect the expeditious processing of this case before the Inter-American Court, the Court finds it pertinent to convene the parties and the Commission to the hearing on the eventual merits, reparations and costs during the same session in which the special hearing on the preliminary objections decided in the preceding paragraph is held. Thus, in this case, two hearing will be held during the same session of the Court: the first on the preliminary objections and the second on the eventual merits, reparations and costs.

#### **THEREFORE:**

#### **THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

in exercise of the authority granted to it by Articles 25 of the Statute of the Court and 15(1), 31, 42, 45 and 46 of the Court's Rules of Procedure,

#### **DECIDES:**

1. To rule that a special public hearing be heard on the preliminary objections filed by the State in the instant case.

2. To rule that the hearing on the eventual merits, reparations and costs be held during the same session of the Inter-American Court in which the special hearing on the preliminary objections is convened.

---

<sup>1</sup> Cf. *Case of the Serrano Cruz Sisters v. El Salvador. Preliminary objections*. Judgment of November 23, 2004. Series C No. 118, para. 30, and *Case of the Pacheco Tineo Family v. Bolivia*. Order of the President of the Court of February 19, 2013, twentieth considering paragraph.

<sup>2</sup> Cf. *Case of the Saramaka People v. Suriname*. Order of the President of the Court of March 30, 2007, second considering paragraph; *Case of Escher et al. v. Brazil*. Order of the President of the Court of October 8, 2008, fifteenth considering paragraph; *Case of Sétimo Garibaldi v. Brazil*. Order of the President of the Court of November 20, 2008, twelfth considering paragraph; *Case of Cepeda Vargas v. Colombia*. Order of the President of the Court of December 22, 2009, forty-fourth considering paragraph; *Case of Cabrera García and Montiel Flores v. Mexico*. Order of the President of the Court of July 2, 2010, eleventh considering paragraph, and *Case of the Pacheco Tineo Family v. Bolivia*. Order of the President of the Court of February 19, 2013, twentieth considering paragraph.

3. To request the Republic of Colombia, the representatives of the presumed victims, and the Inter-American Commission on Human Rights, pursuant to Article 46(1) of the Rules of Procedure of the Court, to forward by June 24, 2013, at the latest, their final list of proposed deponents, in order to program the hearing on the eventual merits, reparations and costs.

4. To require the Secretariat of the Inter-American Court to notify this Order to the Inter-American Commission on Human Rights, the representatives of the presumed victims, and the Republic of Colombia.

Diego García-Sayán  
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto de Figueiredo Caldas

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary