

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

OF NOVEMBER 20, 2015

**CASES OF HILAIRE, CONSTANTINE AND BENJAMIN *ET AL.*
AND OF CAESAR *v.* TRINIDAD AND TOBAGO**

MONITORING COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The Judgments on merits, reparations and costs delivered by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) on June 21, 2002¹, and on March 11, 2005², in the cases of *Hilaire, Constantine and Benjamin et al.* and *Caesar*, respectively, both against the Republic of Trinidad and Tobago (hereinafter “the State” or “Trinidad and Tobago”). In the Judgment of the case of *Hilaire, Constantine and Benjamin et al.*, the Court declared that the State was responsible for the violation of the right to life, the right to personal integrity, the right to personal liberty, the right to a fair trial and the right to judicial protection protected in the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), in detriment of 32 persons convicted of murder and sentenced to death penalty under the Offences Against the Person Act, which provided said mandatory penalty for such offence³. In the Judgment in the case of *Caesar*, the State was held responsible for the violation of the right to personal integrity, the right to a fair trial and the right to judicial protection in detriment of Mr. Winston Caesar, for the execution of a 20 year prison sentence with hard labor and 15 strokes of the “cat-o-nine tails” in 1998. This, after being convicted in 1992 of the

¹ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of June 21, 2002. Series C No. 94. The complete text of this Judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_94_esp.pdf. The present Judgment was notified on July 5, 2002.

² Cf. *Case of Caesar V. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of March 11, 2005. Series C No. 123. The complete text of this Judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_123_esp.pdf. The present Judgment was notified on April 8 2005.

³ The 32 victims attended the internal procedures for the review of their convictions; in some cases the guarantees of due process were violated due to certain factors such as the undue delay of the process, the absence of legal assistance and other types of specialized assistance. In addition, the detention of all the victims was perpetrated under extreme overcrowding and poor hygiene conditions. By the time of emission of the Judgment, 30 of the 32 victims were still prisoners in Trinidad and Tobago waiting to be hanged, with exception of Joey Ramiah, who had already been executed, and Wayne Matthews, whose sentence was commuted.

offense of attempted rape, in accordance with the Offences Against the Person Act⁴. In both cases, the Court determined that its Judgments constituted, *per se*, a form of reparation, and ordered the State to adopt determined measures of reparation (*infra* considering paragraph 1).

2. The Orders on monitoring compliance with the Judgment issued by the Court on November 27, 2003⁵, in the case of *Hilaire, Constantine and Benjamin et al.* and November 21, 2007⁶, in the case of *Caesar*.

3. The three notes of the Secretariat of the Court in which, following instructions of the President of the Court or the Court in plenary, specific information was requested regarding the compliance status with the Judgment of the case of *Hilaire, Constantine and Benjamin et al.*⁷, as well as the seven notes of the Secretariat in which, following instructions of the President of the Court, the State was reminded of the due date to present the report required by the Court in the said Judgment⁸.

4. The brief of September 12, 2005, in which the State requested an extension to present the report requested in the case of *Hilaire, Constantine and Benjamin et al.* through a note of the Secretariat of August 17, 2005 (*supra* having seen paragraph 3), and the note of the Secretariat of September 13, 2005, in which the Court in plenary conceded the requested extension until September 22, 2005.

5. The brief presented by the representative of the victims⁹ on October 28, 2014, in the case of *Hilaire, Constantine and Benjamin et al.*

6. The four briefs of the Inter-American Commission of Human Rights (hereinafter "the Inter-American Commission" or "the Commission") in the case of *Hilaire, Constantine and Benjamin et al.*¹⁰.

7. The notes of the Secretariat of the Court of May 2, 2007; October 24, 2007; March 3, 2011; and May 13, 2015, in which, following instructions of the President of the Court, the State was required to present its report on compliance as requested on the Judgment of the case of *Caesar*.

⁴ The rules that authorized the corporal punishments in Trinidad and Tobago were set out in two laws, being the "Corporal Punishment Act" one of these. On February 5, 1998, Mr. Caesar was subjected to 15 lashes with "the cat-o-nine tails" in pursuance of his sentence. By the time of this Court's Judgment, Mr. Caesar had fulfilled 13 of the 20 years of his conviction. Also, the Court established that the State failed to comply with the rules on detention conditions, given that between the years of 1991 and 1999, Mr. Caesar was subjected to overcrowding, poor hygiene conditions, lack of light and ventilation, and inadequate medical treatment.

⁵ *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Monitoring compliance with judgment.* Order of the Court of November 27, 2003. Available at: http://www.corteidh.or.cr/docs/supervisiones/hilaire_27_11_03.pdf.

⁶ *Cf. Case of Caesar v. Trinidad and Tobago. Monitoring compliance with judgment.* Order of the Court of November 21, 2007. Available at: http://www.corteidh.or.cr/docs/supervisiones/Caesar_21_11_07.pdf.

⁷ Notes of July 16, 2004; October 25, 2004, and October 28, 2004.

⁸ Notes of January 16 and August 1, 2003; August 17, 2005; January 12 and March 22, 2006; January 15, 2007, and April 23, 2015.

⁹ The victims of the case of *Hilaire, Constantine and Benjamin et al.*, are represented by Mr. Saul Lehrfreund, of the law firm Simons Muirhead & Burton.

¹⁰ Briefs of December 8, 2003; July 12 and July 26, 2004, and August 15, 2005.

CONSIDERING THAT:

1. In the exercise of its jurisdictional function of overseeing compliance with its decisions¹¹, the Court has been monitoring the compliance with the Judgments corresponding to the cases of *Hilaire, Constantine and Benjamin et al.* for thirteen years and five months (*supra* having seen paragraph 1), and *Caesar* for ten years and eight months (*supra* having seen paragraph 1). In this regard, in both cases the Court ordered as a measure of reparation the payment of compensations by way of moral damages¹²; and, in the case of *Hilaire, Constantine and Benjamin et al.*, ordered the reimbursement of determined sums for costs and expenses¹³. Likewise, in the case of *Hilaire, Constantine and Benjamin et al.*, the Court ordered the State to process a retrial of the criminal proceedings conducted against the 31 victims¹⁴, "submit before the competent authority and by means of the Advisory Committee on the Power of Pardon [...] the review of the cases" of the said victims¹⁵, and, in any case, it should "abstain from executing [the said victims...] regardless of the results of the new trials"¹⁶. As for the case of *Caesar*, the Court ordered the State to "provide Mr. Winston Caesar, through its national health services, free of charge and for such period as may be necessary, such medical and psychological care and medication"¹⁷. Likewise, in said Judgments, non-repetition guarantees were ordered, such as: the obligation to "abstain from applying the Offences Against the Person Act of 1925 and [...] to modify said Act to comply with international norms of human rights protection"¹⁸, "adopt [...] such legislative or other measures as may be necessary to abrogate the Corporal Punishment Act (Offenders Over Eighteen)"¹⁹ and "amend [...] Section 6 of Trinidad and Tobago's Constitution"²⁰, and the obligation to bring the conditions of detention in the prisons of Trinidad and Tobago into compliance with the international human rights norms²¹. As will be further explained, the due dates for the State to present its reports about compliance required in the Judgments of the cases of *Hilaire, Constantine and Benjamin et al.* and *Caesar* expired on July 5, 2003, and April 8, 2006, respectively. Despite the long time elapsed, Trinidad and Tobago has not provided to this date any information about its compliance with the Judgments, despite the repeated requests made by the Court or its President through notes of the Secretariat (*supra* having seen paragraphs 3 and 7)²².

2. Trinidad and Tobago was a State Party to the American Convention from May 28, 1991, date on which it also recognized the jurisdiction of the Court pursuant to Article 62 of the Convention, until May 26, 1999, date on which the denunciation made by the State entered into force, pursuant to Article 78 of the Convention. Pursuant to

¹¹ Faculty that emerges from the provisions of Articles 33, 62(1), 62(3), 65, 67 and 68 of the American Convention, 24, 25 and 30 of its Statute and 30, 31 and 69 of its Rules of Procedures.

¹² Operative paragraphs 12 and 13 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*, and operative paragraph 1 of the Judgment in the case of *Caesar*.

¹³ Operative paragraph 15 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*

¹⁴ Operative paragraph 9 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*

¹⁵ Operative paragraph 10 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*

¹⁶ Operative paragraph 11 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*

¹⁷ Operative paragraph 2 of the Judgment in the case of *Caesar*.

¹⁸ Operative paragraph 8 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*

¹⁹ Operative paragraph 3 of the Judgment in the case of *Caesar*.

²⁰ Operative paragraph 4 of the Judgment in the case of *Caesar*.

²¹ Operative paragraph 14 of the Judgment in the case of *Hilaire, Constantine, Benjamin et al.*, and operative paragraph 5 of the Judgment in the case of *Caesar*.

²² The only communication made by the State, in both cases, was a request for an extension of the deadline to present information in the case of *Hilaire, Constantine, Benjamin et al.*, on September 12, 2005. This request was granted through a note of the Secretariat on September 13, 2005 (*supra* having seen paragraph 4). Nevertheless, the State failed to present afterwards the aforementioned information.

Article 78(2) of the Convention, a denunciation of the treaty does not relieve the State of its obligations with respect to any act that may constitute a violation of said Convention and that has occurred prior to the entry into force of said denunciation²³.

3. Pursuant to Article 68(1) of the American Convention, “[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.” This obligation includes the State’s duty to advise the Court of the steps taken to comply with each of the measures ordered, which is essential to the evaluation of the compliance status with the Judgment as a whole²⁴. To this effect, it should also be noted that pursuant to Article 67 of the American Convention, “[t]he judgment of the Court shall be final and not subject to appeal”, so that once this Court orders a Judgment, it produces the effects of *res judicata* and must be complied with fully and promptly by the State.

4. The Court affirms that States Parties to the American Convention have the treaty-based obligation to implement promptly and fully, both at an international and domestic level, with the dispositions of the Court included in the Judgments that concern them, obligation that, as is noted in customary international law and has been recalled by the Court, binds all state powers and agencies²⁵ and, when it’s not met, the State incurs in an international and unlawful act. In this regard, it is necessary to add that, according to customary international law and what has been stated by the Court, when an unlawful act occurs that can be attributed to a State, this creates its international responsibility for the violation of an international norm, giving origin to a new legal relation that consists in the obligation to make reparations²⁶. As the Court has indicated²⁷, Article 63(1) of the Convention reproduces the text of a customary norm that constitutes one of the fundamental principles of the law on the international responsibility of States²⁸.

5. Regarding the compliance with the Judgment in said cases, the Court emphasizes that, despite having passed more than twelve years and more than nine years since the due dates ordered in the Judgments of the cases of *Hilaire, Constantine and Benjamin et al.* and *Caesar* (*supra* considering paragraph 1), respectively, and the various requirements made by the Court or its President, the State has not presented

²³ Cf. *Case of Caesar v. Trinidad and Tobago. Merits, Reparations and Costs*. Judgment of March 11, 2005. Series C No. 123, para. 6, and *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Monitoring Compliance with judgment*. Order of the Court of November 27, 2003, second and third considering paragraphs.

²⁴ Cf. *Case of Family Barrios v. Venezuela. Monitoring Compliance with judgment*. Order of the Court of September 2, 2015, second considering paragraph.

²⁵ Cf. *Case of Castillo Petrucci et al. v. Peru. Monitoring Compliance with Judgment*. Order of November 17, 1999, third considering paragraph; *Case of Baena Ricardo and others v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131, and *Case of De la Cruz Flores v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 02, 2015, forty-second considering paragraph.

²⁶ Cf. *Case of Garrido and Baigorria v. Argentina. Reparations and Costs*. Judgment of August 27, 1998. Series C No. 39, para. 40; *Case of Ximenes Lopes v. Brazil. Merits, Reparations and Costs*. Judgment of July 4, 2006. Series C No. 149, para. 232, and *Case of Fontevecchia and D’amico v. Argentina. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 01, 2015, fifth considering paragraph.

²⁷ Cf. *Case of Castillo Páez v. Peru. Reparations and Costs*. Judgment of November 27, 1998. Series C No. 43, para. 50, and *Case of Granier et al. (Radio Caracas Television) v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of June 22, 2015. Series C No. 293, para. 360.

²⁸ Cf. *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion: I.C.J. Reports 1949, p. 184; Affaire relative à l’Usine de Chorzów (Demande en Indemnité) (Fond), Arrêt N° 13, le 13 septembre 1928, C.P.J.I. Série A-N° 17, p. 29; y Affaire relative à l’Usine de Chorzów (Demande en Indemnité) (Compétence), Arrêt N° 8, le 26 juillet 1927, C.P.J.I. Série A-N° 9, p. 21.*

any report about its compliance with the Judgments. The State has omitted to report even when during those years the Court issued orders on 2003 and 2007 declaring non-compliance with said obligation to inform in the cases of *Hilaire, Constantine and Benjamin et al.* and *Caesar*, respectively, and that, subsequently the Court or its Presidency made several requirements. The Court considers that this constitutes non-compliance by Trinidad and Tobago of its duty to advise the Court. The Inter-American Court reiterates that the inactivity of a State before an international human rights jurisdiction is contrary to the objective, aim and spirit of the American Convention²⁹.

6. During the stage of monitoring compliance with judgment, the Court has established that, the breach of the State's duty to advise constitutes non-compliance with the treaty-based obligations pursuant to articles 67 and 68(1)³⁰ (*supra* considering paragraph 3).

7. Taking into consideration said non-compliance of the State, the Court has no elements that may enable it to sustain that Trinidad and Tobago has adopted measures directed to comply with the reparations ordered in the Judgments (*supra* considering paragraph 1). In this respect, the Court considers that said non-compliance prevents the reparation of the human rights violations declared in the Judgments.

8. In addition to the said non-compliance of the duty to advise, the briefs brought by the representative of the victims and the Commission in the case of *Hilaire, Constantine and Benjamin et al.* (*supra* having seen paragraphs 5 and 6) allow the affirmation that the compliance by Trinidad and Tobago with the reparations ordered in the Judgments is pending (*infra* considering paragraphs 9 and 10). The Commission emphasized that the victims of the case are still at risk of being executed, while the representative of the victims stated that the mandatory death penalty is still being imposed on those persons convicted of murder.

9. Even though the Commission provided information regarding the measure to "refrain from applying the Offences Against the Person Act" in the case of *Hilaire, Constantine and Benjamin et al.*, this information allows the reasoning that the State has not complied with the reparation ordered. In this regard, in relation to said case, the Court takes note of the judgments ordered by the Privy Council in the cases of *Balkissoon Roodal Vs. The State* of November 20, 2003, and *Charles Matthew Vs. The State* of July 7, 2004, as provided by the Inter-American Commission. In this respect, the Court verifies that through the judgment of *Balkissoon Roodal*, the Privy Council declared the annulment of the mandatory application of the death penalty³¹. However,

²⁹ Cf. *Case of Caesar v. Trinidad and Tobago. Merits, Reparations and Costs*. Judgment of March 11, 2005. Series C No. 123, para. 38, and *Case of Fontevecchia and D'Amico v Argentina, Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 01, 2015, ninth considering paragraph.

³⁰ In this respect, see for example: *Case of Caesar v. Trinidad and Tobago. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 21, 2007, eleventh considering paragraph; *Case of Huilca Tecse v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 22, 2006, ninth considering paragraph; *Case of Neira Alegría et al. v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of January 19, 2009, nineteenth considering paragraph; *Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Office of the Comptroller") v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of January 28, 2015, third considering paragraph; and *Case of Fontevecchia and D'Amico v. Argentina. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 01, 2015, ninth considering paragraph.

³¹ Said judgment provides that the mandatory death penalty is inconsistent with the international obligations of Trinidad and Tobago based on the American Declaration of the Rights and Duties of Man;

the Court also verifies that through the judgment in the case of *Charles Matthew*, the said decision established in the judgment of the case of *Balkissoon Roodal* was revoked, and the mandatory application of the death penalty was restored³². Nonetheless, according to the same judgment of the case of *Charles Matthew*, the mandatory death penalty could not be applied to those persons who up to that date were benefiting of the decision in the case of *Balkissoon Roodal*³³. Based on this, the Commission considered that this judgment applies to all the victims of the case of *Hilaire, Constantine and Benjamin et al.*, with the exception of Joey Ramiah, and required Trinidad and Tobago to commute all the death penalties imposed to them and impose them life imprisonment. However, the Commission subsequently reported cases of different persons, none of whom are victims of the case under study, that should also be protected by the said exception to the precedent of the case of *Charles Matthew*, and whose executions would have been ordered. The Commission also reported about an alleged state policy directed to the observance of the death penalty orders, founded on the assertion made by the Attorney General in 2005, who would have stated that no legal obstacle would discourage the State to carry out its constitutional mandate in relation to other convicted persons, in accordance with the rule of law³⁴. Likewise, the representative of the victims asserted, on its brief of 2014, that the mandatory death penalty continues to be applied in Trinidad and Tobago. The State, with its silence, did not contradict the statements of the Commission and the representative, despite the specific information requests that through notes of the Secretariat were made regarding the extension of the precedent established in the case of *Charles Matthew* (*supra* having seen paragraph 3).

10. A similar reasoning applies to the case of *Caesar*. The Court observes that the Commission stated that there are no elements that allow the verification of the compliance with the reparation to "adopt [...] such legislative or other necessary measures to repeal the Corporal Punishment Act". On the contrary, it described an example of October of 2005, in which a tribunal of Trinidad and Tobago went back to applying a corporal punishment. This was not contradicted by the State, despite the

consequently, an interpretation consistent with the international obligations of the State should be preferred. As a result, the Privy Council indicated that the Offences Against the Person Act should be interpreted in such a way that would provide the discretionary application of the life sentence. *Cf. Privy Council Appeal No. 18 of 2003, Balkissoon Roodal Vs. The State*, November 20, 2013 (Annex to the brief presented by the Commission on December 8, 2003, p. 21).

³² In this regard, the Privy Council based its decision arguing that although the Trinitarian Constitution recognizes the rights to life and the prohibition of cruel and inhuman treatment, section 6 (1) thereof provides that such rules may not invalidate a pre-existing rule, so, considering that the Offences Against the Person Act precedes the Trinitarian Constitution, its provisions can only be annulled by the Parliament. *Cf. Privy Council Appeal No. 12 of 2004, Charles Matthew Vs. The State*, July 7, 2004 (Annex to the brief presented by the Commission on July 12, 2004, p. 107 and 108). In this matter, the Court finds necessary to reaffirm the provisions of the Judgment in the case of *Hilaire, Constantine and Benjamin et al.*, as well as in the case of *Caesar*, referring to Section 6 of the Constitution of Trinidad and Tobago, when it determined that the State "may not invoke the provisions of its internal law as justification for failure to comply with its international obligations", so that "the exclusion clause contained in Section 6 of the Constitution of Trinidad and Tobago is incompatible with the Convention", which ordered the State to amend this constitutional section (*supra* considering paragraph 6). The Court also takes note that in the vote of the minority of the Privy Council, it was acknowledged that "the effect of reversing *Roodal* is to put the State in breach of its international obligations". *Cf. Privy Council Appeal No. 12 of 2004, Charles Matthew Vs. The State*, July 7, 2004 (Annex to the brief presented by the Commission on July 12, 2004, p. 135).

³³ In this regard, the Privy Council determined that, given that a group of people expected to be subjected under the criterion of the *Roodal* case, it would be a cruel punishment to remove the law which they previously had. However, that criterion would not apply to those convicted after the judgment of the case *Matthew*. *Cf. Privy Council Appeal No. 12 of 2004, Charles Matthew Vs. The State*, July 7, 2004 (Annex to the brief presented by the Commission on July 12, 2004, p.109, 115 y 116).

³⁴ *Cf. Daily Press Release of The Trinidad Guardian, State forced to hold hand on hanging*, June 14, 2005 (Annex to the brief presented by the Commission on August 15, 2005, p. 157).

notes from the Secretariat that required the presentation of information regarding compliance with the Judgment (*supra* having seen paragraph 7).

11. The Court considers that said non-compliance with the duty to advise and to implement the reparations ordered (*supra* considering paragraphs 5 to 10) constitutes an open disregard of the duties derived from the Judgments handed down by the Court and of the treaty-based obligations of the State, which precludes the reparation of the violations to the human rights established in the Judgments and strips the Convention of its effectiveness (*effet utile*) in the specific case³⁵.

12. Based on the foregoing, the Court considers it necessary to apply the dispositions set in Articles 65 of the American Convention³⁶ and 30 of its Statute³⁷, so that in the Annual Report 2015, that the Court will submit for consideration of the General Assembly of the Organization of American States, it will indicate that Trinidad and Tobago has failed to comply during twelve years with its obligation to comply with the reparations ordered in the Judgment of 2002 in the case of *Hilaire, Constantine and Benjamin et al.* as well as with its duty to advise about the steps taken to this end; and during nine years with its obligation to comply with the reparations ordered in the Judgment of 2005 in the case of *Caesar*, as well as with its duty to advise about the steps taken to this end. In this situation, the American States have established a system of collective enforcement where all the States Parties must make every effort to ensure that there is no evident failure by the States with their obligation to comply with and obey the Court's Judgments.

13. This Court has indicated that the American Convention and other human rights treaties, are applied in accordance with the notion of collective guarantee and have a special nature distinguishing them from other treaties, which regulate reciprocal interests of States Parties³⁸. This concept of collective enforcement is closely related to the practical effects of the Judgments of the Inter-American Court, because the American Convention embodies a system that constitutes a real regional public order, the maintenance of which is in the interest of each and every State Party. The interest of the signatory States is the preservation of the system for the protection of human rights that they themselves have created, and if a State violates its obligation to comply with the decisions of the only jurisdictional organ in this matter, it is violating the undertaking to comply with the Court's Judgments made towards the other States. Therefore, the task of the General Assembly of the Organization of American States, in the case of manifest noncompliance with a Judgment delivered by the Inter-American Court by one of the States, is precisely that of protecting the practical effects of the American Convention and preventing the inter-American justice from becoming illusory by being at the discretion of the internal decisions of a State.

³⁵ Cf. *Case of Yatama v. Nicaragua. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of August 22, 2013, fifteenth considering paragraph.

³⁶ "To each regular session of the General Assembly of the Organization of American States the Court shall submit, for the Assembly's consideration, a report on its work during the previous year. It shall specify, in particular, the cases in which a state has not complied with its judgments, making any pertinent recommendations".

³⁷ "The Court shall submit a report on its work of the previous year to each regular session of the OAS General Assembly. It shall indicate those cases in which a State has failed to comply with the Court's ruling. It may also submit to the OAS General Assembly proposals or recommendations on ways to improve the inter-American system of human rights, insofar as they concern the work of the Court".

³⁸ Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 96.

14. Once the Court has determined the application of said articles in cases of noncompliance with its judgments, and has advised this in its Annual Report for the consideration of the General Assembly of the Organization of American States, the Court will continue including said non-compliance each year when presenting its Annual Report, unless the State provides information on the adoption of the necessary measures taken to comply with the reparations ordered in the Judgment; or that the representatives of the victims or the Commission report information regarding the implementation and compliance with the dispositions of the Judgments that require assessment by this Court³⁹.

THEREFORE

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

In exercise of its authority to monitor compliance with its decisions and pursuant to Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, 24, 25 and 30 of its Statute and 30, 31 and 69 of its Rules of Procedure,

DECLARES THAT:

1. The State has not complied for twelve years with its obligation to inform this Court of the measures adopted to comply with the reparations ordered in the Judgment of June 21, 2012, in the case of *Hilaire, Constantine and Benjamin et al.*, and for nine years regarding the Judgment of March 11, 2005, in the case of *Caesar*, pursuant to the indicated in the considerations of this Order.
2. The State has not complied with any of the reparations ordered in the Judgment of the case of *Hilaire, Constantine and Benjamin et al.*:
 - a) Abstain from applying the Offences Against the Person Act of 1925 and within a reasonable period of time, modify said Act to comply with international norms of human rights (*eight operative paragraph of the Judgment*).
 - b) Order a retrial in which the new criminal legislation resulting from the reforms to the Offences Against the Person Act of 1925 will be applied in the criminal proceedings in relation to the crimes imputed to 31 of the victims in the terms of the Judgment (*ninth operative paragraph of the Judgment*).
 - c) Submit before the competent authority and by means of the Advisory Committee on the Power of Pardon, the review of the cases of the victims (*tenth operative paragraph of the Judgment*).
 - d) Abstain from executing the victims, in all cases and regardless of the results of the new trials (*eleventh operative paragraph of the Judgment*).
 - e) Pay for non-pecuniary damage to the wife of Joey Ramiah, Carol Ramcharan, the sum provided in the Judgment to support and educate their child, Joanus Ramiah (*twelfth operative paragraph of the Judgment*).
 - f) Pay Joey Ramiah's mother, Moonia Ramiah, the sum provided in the Judgment for non-pecuniary damage (*thirteenth operative paragraph of the Judgment*).

³⁹ Cf. *Case of Apitz-Barbera et al. ("First court of Administrative disputes") v. Venezuela. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 23, 2012, forty-eight considering paragraph.

- g) Modify the conditions of its prison system to conform to the relevant international norms of human rights protection on the matter (*fourteenth operative paragraph of the Judgment*).
- h) Pay the representatives of the victims the sum provided in the Judgment as reimbursement for their expenses (*fifteenth operative paragraph of the Judgment*).

And in relation to the case of *Caesar*:

- a) Pay to Mr. Winston Caesar the compensation provided in the Judgment for moral damages (*first operative paragraph*).
- b) Provide Mr. Winston Caesar, through its national health services, free of charge and for such period as may be necessary with effect from the date of notification of the Judgment, such medical and psychological care and medication as may be recommended by appropriately qualified specialists (*second operative paragraph*).
- c) Adopt, within a reasonable time, such legislative or other measures as may be necessary to abrogate the Corporal Punishment Act (Offenders Over Eighteen) (*third operative paragraph*).
- d) Amend, within a reasonable time, Section 6 of Trinidad and Tobago's Constitution (*fourth operative paragraph*).
- e) Adopt, within a reasonable time, such measures as may be necessary to bring the conditions of detention in its prisons into compliance with the relevant international human rights norms (*fifth operative paragraph*).

AND DECIDES:

3. To maintain open the procedure of monitoring compliance with judgment regarding all the reparation measures ordered in the Judgments of said cases, in terms of the considering paragraph 14 of this Order.
4. To dispose Trinidad and Tobago to adopt, in a definitive manner and as soon as possible, all the measures necessary to give an effective and prompt compliance to the operative paragraphs pending compliance of the Judgments ordered in the present cases, in accordance with the considerations of this Order and pursuant to Article 68(1) of the American Convention on Human Rights.
5. To incorporate into the next Annual Report of the Inter-American Court of Human Rights the decisions taken in this Order so as to inform the General Assembly of the Organization of American States, in application of Article 65 of the American Convention on Human Rights, of the failure of the State of Trinidad and Tobago to comply with its obligations indicated in the operative paragraphs 1 and 2 of this Order.
6. To request the Secretariat of the Court to notify this Order to the State, the representatives of the victims and the Inter-American Commission of Human Rights.

Order of the Inter-American Court of Human Rights Case of Hilaire, Constantine and Benjamin and others; and Case of Caesar Vs. Trinidad and Tobago. Monitoring Compliance with Judgments.

Humberto Antonio Sierra Porto
President

Roberto F. Caldas

Manuel E. Ventura Robles

Diego García-Sayán

Alberto Pérez Pérez

Eduardo Vio Grossi
Poison

Eduardo Ferrer Mac-Gregor

Pablo Saavedra Alessandri
Registrar

So ordered,

Humberto Antonio Sierra Porto
President

Pablo Saavedra Alessandri
Registrar