

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF MAY 14, 2013**

CASE OF CONTRERAS *ET AL.* v. EL SALVADOR

MONITORING COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The Judgment on merits, reparations and costs delivered by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) on August 31, 2011 (hereinafter “the Judgment”), in which it accepted the acknowledgement of international responsibility made by the Republic of El Salvador (hereinafter “the State” or “El Salvador”) and declared the latter internationally responsible for the forced disappearances of Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez, Gregoria Herminia Contreras, Julia Inés Contreras, Serapio Cristian Contreras and José Rubén Rivera Rivera, perpetrated by members of the Armed Forces between 1981 and 1983. These took place in the context of the most violent phase of the internal armed conflict in El Salvador and were part of a systematic pattern of forced disappearances of children, who were illegally removed and retained by members of the Armed Forces in the context of the counterinsurgency operations, a practice that, in many cases, involved the appropriation of the children and their registration with a different name or with false information. Although approximately 30 years have elapsed since the said forced disappearances without any of the masterminds or perpetrators having been identified and prosecuted, and without all the truth about the facts being known to this day, when this Judgment was handed down only the whereabouts of Gregoria Herminia Contreras had been established, through the actions of a non-State organization. Thus, a situation of total impunity prevailed. Furthermore, the circumstances of this case revealed that the suffering of the three families affected by the disappearance of one or more of their children was increased by being deprived of the truth both about what happened and about the whereabouts of the victims, and by the lack of collaboration of the State authorities in order to establish this truth. Consequently, the Court found that there had been a violation of Articles 3, 4(1), 5(1), 5(2), 7, 7(6), 8(1), 11(2), 17(1), 18, 19 and 25(1), in relation to Article 1(1) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”).¹ The Court also established that:

* Judge Eduardo Vio Grossi informed the Court that, for reasons beyond his control, he would be unable to attend the deliberation and signature of this Order.

¹ The official summary [in Spanish] of the Court’s Judgment can be consulted at the following site: http://www.corteidh.or.cr/docs/casos/articulos/resumen_232_esp.pdf.

[...]

2. Within a reasonable time, the State must continue effectively and with the greatest diligence the investigations it has commenced, as well as initiate any other necessary in order to identify, prosecute and, as appropriate, punish all those responsible for the forced disappearances of Gregoria Herminia Contreras, Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera, as well as other related illegal acts, as established in paragraphs 183 to 185 and 187 to 188 of th[e] Judgment.

3. The State must conduct, as soon as possible, a genuine search, in which it makes every effort to determine the whereabouts of Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera, as established in paragraphs 190 to 192 of th[e] Judgment.

4. The State must adopt all the appropriate and necessary measures to restore the identity of Gregoria Herminia Contreras, including her first and last names, as well as her other personal data. In addition, the State must activate and use the available diplomatic mechanisms to coordinate cooperation with the Republic of Guatemala in order to facilitate the correction of the identity of Gregoria Herminia Contreras, including her first and last name and other data, in the records of that State. Similarly, the State must guarantee the conditions for the return of Gregoria Herminia Contreras should she decide to return to El Salvador permanently, in the terms established in paragraphs 194 to 197 of th[e] Judgment.

5. The State must provide, immediately, the medical, psychological or psychiatric treatment to the victims that request it and, as appropriate, pay the amounts established to Gregoria Herminia Contreras, as established in paragraphs 199 a 201 of th[e] Judgment.

6. The State must make the publications ordered, as established in paragraphs 203 and 204 of th[e] Judgment.

7. The State must organize a public act to acknowledge international responsibility for the facts of this case, as established in paragraph 206 of th[e] Judgment.

8. The State must designate three schools: one with the name of Gregoria Herminia, Serapio Cristian and Julia Inés Contreras, another with the name of Ana Julia and Carmelina Mejía Ramírez, and a third with the name of José Rubén Rivera Rivera, in the terms of paragraph 208 of th[e] Judgment.

9. The State must make an audio-visual documentary on the forced disappearance of children during the armed conflict in El Salvador, with specific mention of this case, which includes the work carried out by the *Asociación Pro-Búsqueda de Niños and Niñas Desaparecidos*, as established in paragraph 210 of th[e] Judgment.

10. The State must adopt the pertinent and appropriate measures to guarantee to agents of justice, as well as to Salvadoran society, public, technical and systematized access to the archives that contain useful information that is relevant to the investigation in cases prosecuted for human rights violations during the armed conflict, as established in paragraph 212 of th[e] Judgment.

11. The State must pay the amounts established in paragraphs 225, 228 and 239 of th[e] Judgment as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, in the terms of paragraphs 243 to 249 [t]hereof.

[...]

2. The brief of March 12, 2012, in which El Salvador requested the official summary of the Judgment in Word format (*supra* having seen paragraph 1), “for the measures it is taking to publish it,” as well as the note of the Secretariat of the Court of March 14, 2012, with which it forwarded to the State the official summary in Word format. In addition, the briefs of November 15 and December 20, 2012, and January 17, 2013, in which the State presented information on compliance with the Judgment (*supra* having seen paragraph 1).

3. The briefs of December 28, 2012, January 11 and February 1, 2013, in which the representatives of the victims (hereinafter “the representatives”) forwarded information on compliance with the Judgment, as well as observations on the information presented by the State (*supra* having seen paragraph 2).

4. The brief of January 25, 2013, in which the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) presented its observations on the information provided by the State and by the representatives (*supra* having seen paragraphs 2 and 3).

CONSIDERING THAT:

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. As established in Article 67 of the American Convention, the judgments of the Court must be complied with fully and promptly by the State. In addition, Article 68(1) of the American Convention stipulates that “[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.” To this end, the State must ensure implementation at the national level of the Court’s decisions in its judgments.²

3. The obligation to comply with the decisions in the Court’s judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, States must comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.³ The treaty obligations of the States Parties are binding for all the powers and organs of the State.⁴

4. The States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle is applicable not only with regard to the substantive norms of human rights treaties (that is, those which contain provisions concerning the protected rights), but also with regard to procedural norms, such as those referring to compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁵

a) *Obligation to continue effectively and with the greatest diligence the investigations it has commenced, as well as initiate any others necessary in*

² Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60, and *Case of Gelman v. Uruguay. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of March 20, 2013, third considering paragraph.

³ Cf. *International responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Arts. 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35, and *Case of Vélez Loor v. Panama. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 13, 2013, third considering paragraph.

⁴ Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 17, 1999, third considering paragraph, and *Case of Vélez Loor v. Panama. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 13, 2013, third considering paragraph.

⁵ Cf. *Case of Ivcher Bronstein vs. Peru. Competence*. Judgment of September 24, 1999, Series C No. 54, para. 37, and *Case of Vélez Loor v. Panama. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 13, 2013, fourth considering paragraph.

order to identify, prosecute and punish, as appropriate, all those responsible for the forced disappearances of Gregoria Herminia Contreras, Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera, as well as other related illegal acts (second operative paragraph of the Judgment)

5. The State advised that, following notification of the Judgment of the Court, it had transmitted the decision contained in this operative paragraph to the Office of the Prosecutor General, the entity responsible for investigating the facts, and that the said Office had not reported the existence of recent results in relation to this case. Consequently, the State did not have any information concerning specific results as regards the investigation that would reflect a change in the situation of the proceedings that are underway.

6. The representatives expressed their concern because, despite the Court's decision, "not the slightest progress has been made in one of the most important measures ordered by the Court." In addition, they considered that it was essential that the prosecutors responsible for the investigations forward a complete, detailed and updated report, as soon as possible, which "should contain, as a minimum, details of the strategies and lines of investigation that have been defined, as well as a description of all the measures taken to date [...], the pertinence of these measures, and also of those that are pending, and a timetable for carrying out the latter as rapidly as possible." Consequently, they asked the Court to find that the State has failed to comply with this obligation totally, to continue monitoring this measure, and to order the State to provide updated and detailed information on the investigation of each of the cases.

7. The Commission observed with concern that the State had not presented information on this point. In this regard, it considered it relevant that the Court ask the State to present, as soon as possible, complete, detailed and updated information on compliance with this obligation, which means that it must provide information on: (a) the strategies and lines of investigation followed in the criminal, administrative or any other type of proceedings opened to determine all the masterminds and perpetrators of the forced disappearances in this case, including State officials; (b) the investigations related to the harm caused to Gregoria Herminia Contreras by facts such as her appropriation, the alteration of her identity, ill-treatment and sexual abuse, and (c) the way in which it is ensuring that full access and legal standing of the victims or their next of kin at all stages of the different investigations and proceedings.

8. The Court has previously established that the order to prosecute and eventually punish the perpetrators and to discover the truth of the facts is one of the essential decisions contained in the judgments of the Court, because it is intended to provide moral satisfaction for the victims; it permits mentally overcoming the violations committed; it re-establishes social relations; it contributes to avoiding the repetition of the facts; it helps to eliminate the power that the perpetrators could eventually exercise, and it signifies that justice has been obtained with the application of the respective legal consequences, punishing those who deserve it and providing reparation to those who merit it.⁶

⁶ Cf. *Case of Molina Theissen v. Guatemala. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 16, 2009, twentieth considering paragraph, and *Case of the Serrano Cruz Sisters v. El Salvador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 3, 2010, sixteenth considering paragraph.

9. Accordingly, the Court notes with concern that the State merely advised that it had no information relating to the specific results of investigations that would reflect a change in the situation of the proceedings underway, because the Prosecutor General's Office had not reported the existence of recent results in relation to this case (*supra* considering paragraph 5). Consequently, even though almost two years have elapsed since the Judgment was handed down, it can be concluded that a situation of total impunity continues to exist with regard to the violations declared in this case.

10. In this regard, the Court reiterates that, once this Court has ruled on the merits, and the reparations and costs, in a case submitted to its consideration, the State must observe the norms of the Convention that refer to compliance with the judgment or judgments⁷ (*supra* considering paragraphs 2 and 3). The treaty-based obligations of the States Parties are binding for all the powers and organs of the State;⁸ in other words, for all the powers of the State (Executive, Legislative, Judicial and other branches of the public powers) and other public or State authorities of any level. All these authorities have the obligation to comply with international law. This interpretation is derived directly from the principle contained in the above-mentioned Article 27 of the Vienna Convention on the Law of Treaties. Furthermore, the States Parties to the Convention may not invoke provisions of constitutional law or other aspects of domestic law to justify their failure to comply with or to apply the obligations contained in the said treaty.⁹

11. In this regard, when the international proceedings have concluded and the judgment is handed down, the State must avoid the repetition of the conducts that gave rise to the litigation. The judgment and the reparations ordered therein should provide a new framework and a new vision that permits the problems identified to be overcome truly and promptly. Thus, it is essential that all the State's agencies and institutions collaborate with each other, both to provide information and to take the measures that fall within their terms of reference under domestic law, in order to comply with the said reparations.¹⁰

12. The Court therefore considers it essential that the State take specific measures to make progress in compliance with its obligation to investigate the facts in order to identify, prosecute and punish, as appropriate, all those responsible for the forced disappearances of Gregoria Herminia Contreras, Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia

⁷ Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60, and *Case of Apitz Barbera et al. ("First Contentious-Administrative Court") v. Venezuela. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2012, twenty-first considering paragraph.

⁸ Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 17, 1999, third considering paragraph, and *Case of Apitz Barbera et al. ("First Contentious-Administrative Court") v. Venezuela. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2012, twenty-second considering paragraph.

⁹ Cf. *International responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Arts. 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35, and *Case of Cantoral Benavides v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 20, 2009, fifth considering paragraph. See also: General Comments adopted by the Human Rights Committee, General Comment No. 31, Nature of the General Legal Obligation Imposed on States Parties to the Covenant, eightieth session, U.N. Doc. HRI/GEN/1/Rev.7 at 225 (2004), and *Case of Apitz Barbera et al. ("First Contentious-Administrative Court") v. Venezuela. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 23, 2012, twenty-third considering paragraph.

¹⁰ Cf. *Case of Molina Theissen v. Guatemala. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 16, 2009, twenty-fourth considering paragraph, and *Case of the Serrano Cruz Sisters v. El Salvador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 3, 2010, seventeenth considering paragraph.

Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera, as well as other related illegal acts. In addition, the State must guarantee that the authorities in charge of conducting the investigations comply with their duty in order to establish the truth about the facts and to determine the corresponding legal consequences, without requiring the interested party to take further procedural measures. Lastly, in the circumstances of the instant case, the Court finds it pertinent that the State adopt, if possible, additional measures and appropriate mechanisms to make diligent progress in the investigation of the facts, as indicated in paragraph 186 of the Judgment.¹¹ Based on the foregoing considerations, the Court finds it necessary that El Salvador forward complete, detailed and updated information on the proceedings and measures taken in the context of the investigations into the facts of this case, including copies of the main proceedings, that reveal the status and the progress made in the investigations.

b) Obligation to conduct, as soon as possible, a genuine search, in which it makes every effort to determine the whereabouts of Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera (third operative paragraph of the Judgment)

13. The State advised that, at that time, it had confirmation that two of the victims of the case, the youths José Rubén Rivera Rivera and Serapio Cristian Contreras, had been found. With regard to José Rubén Rivera Rivera, the State indicated that, owing to the measures taken by the National Commission for the Search for Children Disappeared during the Internal Armed Conflict¹² (hereinafter “the National Search Commission”), in March 2012, confirmation had been received that he was living in the United States of America. However, his current identity – assigned by his adoptive family – and his address would be kept confidential at his request. At the present time, efforts based on a psychosocial approach are being made with the biological family and with José Rubén Rivera Rivera in order to prepare them for a possible reunion, and El Salvador was facilitating the necessary migratory procedures. As part of the said measures, it had offered collaboration with advice on legal aspects through one of its offices abroad; the victim had been issued with a Salvadoran passport on April 28, 2012, under a rapid procedure and without any cost to him, and the victim had been informed that the costs of his travel to El Salvador would be covered by the State. However, the State was unable to intervene in any way in the migratory situation of José Rubén Rivera Rivera in the country where he currently resides, and he himself had expressed his wish to take all necessary steps for his return through his own lawyer. In addition, an offer had been made to the victim to obtain psychological

¹¹ According to paragraph 186 of the Judgment, the Court found it pertinent that the State adopt measures such as: (a) establish coordination mechanisms between the different State bodies and institutions with the powers to investigate, and mechanisms to monitor the cases being processed for the forced disappearance of children during the armed conflict; to this end, a database on the matter must be set up and kept updated in order to ensure the most coherent and effective investigations; (b) elaborate protocols for procedures in this matter with an interdisciplinary approach and train the officials involved in the investigation of serious human rights violations so that they are able to use the available legal, technical and scientific elements; (c) promote pertinent actions of international cooperation with other States in order to facilitate the collection and exchange of information, as well as and other necessary legal actions, and (d) Ensure that the different bodies of the justice system involved in the case have the human, financial, logistic, scientific and other resources necessary to perform their tasks adequately, independently and impartially, and adopt the necessary measures to guarantee that judicial, prosecutorial and investigative officials and other agents of justice have an adequate security and protection system, which takes into account the circumstances of the cases for which they are responsible and the place where they work, and allows them to perform their functions with due diligence, and to protect witnesses, victims and next of kin.

¹² According to information provided by the State, the President of the Republic of El Salvador created this Committee by Executive Decree No. 5 of January 15, 2010, published in Official Gazette No. 11, Volume 386, of January 18, 2010.

support in his country of residence, since he lived outside El Salvador. Regarding the investigation that led to finding him, the State reported that, based on the information concerning the date of his alleged forced disappearance, the victim was linked to a case examined by the National Search Commission in October 2011, and, in this way, it was possible to establish contact with José Rubén Rivera Rivera, whose identity was confirmed scientifically by DNA testing.

14. As regards Serapio Cristian Contreras, the State explained that, on August 7, 2012, it had received information from the *Asociación Pro-Búsqueda de Niños and Niñas Desaparecidos* (hereinafter "*Asociación Pro-Búsqueda*") concerning his discovery, which had been achieved exclusively by the said Association. On August 9, 2012, a representative of the State participated in the family reunion which took place in the home of María Maura Contreras, in the department of San Vicente. According to information provided by the *Asociación Pro-Búsqueda*, it had information about this case as of June 2012, but it had waited to receive the respective genetic report. During the said reunion, the State had informed the victim of its willingness to arrange his medical care and other measures when he considered this appropriate.¹³

15. The State also advised that, as part of the investigation to find Julia Inés Contreras, the National Search Commission had interviewed family members, key informants who had connections to the Armed Forces of El Salvador, and female personnel who provided cooking, cleaning and laundry services on military bases. As a result, a person was found who it was thought might be Julia Inés Contreras, but the DNA evidence disproved this possibility. In addition, as part of the investigation to find the sisters Ana Julia and Carmelina Mejía Ramírez, the National Search Commission had interviewed key informants and requested the collaboration of the office that keeps a record of the country's citizens to obtain data on possible informants, without this investigation having produced conclusive results.

16. The representatives expressed their satisfaction and pleasure that the whereabouts of José Rubén Rivera Rivera had been discovered, and agreed with the State that it was important to continue taking the necessary measures for him to be able to receive psychosocial assistance if he so wished and to reunite with his biological family as soon as possible. In addition, they appreciated the work of the National Search Commission; nevertheless, they considered it particularly important that the representatives should be informed about the investigations that it was undertaking, especially in cases where decisions have been taken by organs of the inter-American system for the protection of human rights. This was because, in the instant case, they had not been informed officially of the victim's discovery by the National Search Commission, but found out about it during a public event, and subsequently asked the said Commission for information, which was provided to them. They asked the Court to consider that the State had complied with the obligation to find José Rubén Rivera Rivera. Regarding the discovery of Serapio Cristian Contreras, the representatives explained that the *Asociación Pro-Búsqueda* had been investigating the case since 1994, and that in 2012 it had been able to prove that the victim had been adopted by a family in El Salvador and that he had been registered under another name. In addition, they asked the Court to urge the State to incorporate the said victim as a beneficiary of the measures of reparation that correspond to him. With regard to Julia Inés

¹³ In addition, the State indicated that, on October 18, 2012, the *Asociación Pro-Búsqueda* and the Ministry of Foreign Affairs of El Salvador had signed an inter-institutional cooperation agreement, in order to organize the necessary coordination and cooperation measures between this Association and the Ministry of Foreign Affairs, through the Salvadoran diplomatic and consular representatives abroad, in order to facilitate reunions with their biological families of children who were disappeared during the armed conflict and who are found abroad.

Contreras, the representatives considered that the information provided by the State was “very brief and imprecise,” because it did not mention whether searches had been conducted in the military archives or whether senior members of the military had been interviewed and, also, despite the fact that the cooks in the barracks (also known as “*nanas*”) looked after the children on arrival, they were unaware of their subsequent fate. Consequently, the representatives considered that the National Search Commission should send a report to the Court with details of the measures being taken to find Julia Inés Contreras. Lastly, with regard to the case of the sisters Ana Julia and Carmelina Mejía Ramírez, the representatives observed that the information provided did not permit verifying whether “systematic and rigorous” measures were being taken. Consequently, they asked the Court to find that the discovery of Julia Inés Contreras, and of Ana Julia and Carmelina Mejía Ramírez was pending compliance and to continue monitoring this measure, and to require the State to present more detailed information on the measures being taken to this end.

17. The Commission assessed positively the efforts deployed by the State to achieve the identification of two of the victims and to permit the reunion of one of them with his biological family. It awaited information on the measures adopted: (i) to facilitate the reunion of José Rubén Rivera Rivera with his biological family; (ii) to organize the re-establishment of the right to identity of these two individuals, and (iii) to provide them with psychosocial assistance adapted to their needs. Regarding the other victims, it considered it relevant to have updated information describing the measures taken to find them.

18. First, the Court appreciates the successful culmination of the efforts made by the State to find José Rubén Rivera Rivera alive, through the actions of the National Commission for the Search for Children Disappeared during the Internal Armed Conflict, as well as the efforts made by the *Asociación Pro-Búsqueda de Niños and Niñas Desaparecidos*, which also led to finding Serapio Cristian Contreras alive, and reiterates its recognition of the important work carried out by this organization. In this regard, the Court stresses the importance of compliance with this measure in order to realize the right of both the victims and of their families to know the truth about what happened. In the case of the families, because it permits knowing the fate and whereabouts of their loved ones and completing their knowledge of all the circumstances of the forced disappearance and, thus, ending their long search. For the children who were seized, the knowledge of what happened allows them to reconstruct their biological and historical truth, including the circumstances of their birth, family life, and appropriation, as well as to restore the right to identity, in both the personal, and also the family and social sphere. Lastly, the Court underscores the relevance of compliance with this measure of reparation for Salvadoran society in general, because knowing the truth about the facts of the heinous human rights violations that occurred during the domestic armed conflict and, in particular, the forced disappearances of children, ensures that events of this nature and severity are never repeated. Based on the foregoing, the Court finds that the aspect of the reparation relating to the determination of the whereabouts of Serapio Cristian Contreras and José Rubén Rivera Rivera has been complied with fully.

19. However, the Court notes that, according to the Judgment, the State’s obligation also includes the duty to “assume the expenses [...] of the reunion, and of the necessary psychosocial care; it must provide a means of re-establishing their identity and make the efforts required to facilitate family reunification, should they so wish.”¹⁴ With regard to Serapio Cristian Contreras, the Court appreciates the fact that, on August 9, 2012, he was

¹⁴ *Case of Contreras et al. v. El Salvador. Merits, reparations and costs. Judgment of August 31, 2011. Series C No. 232, para. 192.*

reunited with his biological family, so that it also considers that this aspect of the reparation has been fulfilled. Nevertheless, the measures for re-establishing his identity with the appropriate psychosocial assistance, if he so desires, remain pending.

20. With regard to José Rubén Rivera Rivera, the Court takes note of and appreciates the information forwarded by the State which makes a start on the execution of this aspect of the reparation, in the sense that the State: (i) is working with the biological family, based on a psychosocial approach, in order to prepare them for a possible reunion; (ii) is supporting the migratory procedures that will permit this, and (iii) has indicated its willingness to cover the costs of his travel to El Salvador with State resources. Based on this information, the Court will continue monitoring this measure of reparation.

21. Regarding the determination of the whereabouts of Julia Inés Contreras, as well as that of the sisters Ana Julia Mejía Ramírez and Carmelina Mejía Ramírez, the Court recalls that, according to paragraph 191 of the Judgment, the State must continue to carry out a genuine search in which it makes every possible effort to determine the whereabouts, and this “should be done systematically and rigorously, with all the adequate and appropriate human, technical and scientific resources and, if necessary, cooperation should be requested from other States and international organizations. The said measures must be reported to the next of kin and, where possible, their presence should be secured.” In this regard, although it can be inferred that various interviews have been conducted in the context of the investigation of the National Search Commission, the Court does not have other information that would allow it to assess the degree of progress towards compliance with the reparation ordered in the Judgment in relation to these victims.

22. Based on the above, the Court finds that the obligation to determine the whereabouts of Serapio Cristian Contreras and José Rubén Rivera Rivera has been complied with fully, as well as to guarantee the family reunion of the former. Furthermore, owing to the obligations that remain pending, the Court considers it essential that the State present complete, detailed and updated information, with copies of the corresponding documents, on: (a) the measures to restore the identity of Serapio Cristian Contreras and the psychosocial assistance provided, if he desired this; (b) the measures taken for the reunion of José Rubén Rivera Rivera with his biological family, the psychosocial assistance provided, the restitution of his identity and the family reunion, if he desires this, and (c) the procedures and measures undertaken in order to determine the whereabouts of Julia Inés Contreras, and the sisters Ana Julia Mejía Ramírez and Carmelina Mejía Ramírez.

c) Obligations to adopt all the appropriate and necessary measures to restore the identity of Gregoria Herminia Contreras, including her first and last name, as well as her other personal data; to activate and use the available diplomatic mechanisms to coordinate cooperation with the Republic of Guatemala in order to facilitate the correction of the identity of Gregoria Herminia Contreras, including her first and last name and other data in the records of that State; and to guarantee the conditions for the return of Gregoria Herminia Contreras should she decide to return to El Salvador permanently (fourth operative paragraph of the Judgment)

23. The State advised that “measures to prove invalid filiation” were taken in the Second Family Court of Santa Ana, through the Attorney General’s Office, in order to annul the birth certificate that was registered fraudulently in the Mayor’s Office of Santa Ana and, in which, the victim is attributed with the name of Gregoria de Jesús Molina. A preliminary hearing in this judicial proceeding was held on December 19, 2011; a DNA test was performed on January 10, 2012, and on February 10, 2012, the sentencing hearing was held, during

which Fermín Recinos voluntarily acknowledged paternity of Gregoria Herminia Contreras, whose presence at each procedural stage of the proceedings was ensured by the State covering the costs of her travel from Guatemala and her stay in El Salvador. This judgment declared “invalid the filiation contained in the [said] fraudulently registered birth certificate,” and ordered the annulment of the entry, the annulment of the original birth certificate registered in the city of San Vicente, and the registration of a new birth certificate with the name of Gregoria Herminia Recinos Contreras. In addition, on July 18 and 19, 2012, a new identity document and a new passport were provided free of charge, neither of which make any reference to her previous identity. The State also advised that it was coordinating the future correction of her identity in the records of the Republic of Guatemala, and to this end was notarizing the documentation issued in El Salvador under the procedure to restore her identity. The said documentation would be sent to the competent authority, through the Consulate General of El Salvador in Guatemala, so that the necessary judicial and administrative measures could be taken. In this regard, the State indicated that, on August 28, 2011, prior to the judgment of the Inter-American Court, the Consul General of El Salvador in Guatemala, a lawyer from the Human Rights Directorate of the Ministry of Foreign Affairs and a lawyer from the *Asociación Pro-Búsqueda* had held a meeting in Guatemala City with the Attorney for Children and Adolescents of the Attorney General's Office in Guatemala, and that, during this meeting, they were informed of the procedural channels for rectifying birth certificates in Guatemala and obtained an initial expression of institutional collaboration. In addition, on August 28, 2011, a meeting was held with the Director of the Guatemalan National Civil Registry (RENAP) to coordinate the administrative stage of the process of rectifying entries in the Republic of Guatemala. Nevertheless, the State underscored that “the result of any kind of judicial or administrative proceedings in [that] country does not depend on these measures and that it also requires the active participation of the interested party.”

24. The State also reported that it had received, through the representatives, the expression of the wish of Gregoria Herminia Recinos Contreras to return to El Salvador, indicating as necessary conditions that she be provided with a house in San Salvador in which she, her husband and three children can live in decent conditions, and which has adequate safety conditions, in an area near a school, and with a space where her husband can set up a silkscreen workshop. In addition, they referred to immigration aspects to ensure that her husband and children, of Guatemalan nationality, can live and work in El Salvador. In this regard, the State assumed its obligation under the Judgment, which would be implemented as follows: psychosocial assistance adapted to her needs and the payment of the expenses of moving the victim and her family. In addition, the State considered it basic to assume the support and coordination required to regularize any migratory aspect in El Salvador of the victim, as a Salvadoran citizen, and her family. However, the State had offered possible dwellings in the zone of Lourdes Colón, La Libertad, which the victim had declined because there was insufficient space for installing her husband's business. She had been offered ownership of the said dwelling, without the cost it would have for the population in general, and the State remained willing to provide a house under the same terms and conditions. Furthermore, at the request of the victim and her representatives, it was also exploring the possibility of a house in the department of San Vicente, the place of residence of Serapio Cristian Contreras.

25. The representatives acknowledged that the judicial proceeding required to rectify the identity of Gregoria Herminia Recinos Contreras had been held in the Second Family Court of Santa Ana. However, they considered that the State should increase coordination measures with the Republic of Guatemala owing to the fact that the measures reported corresponded to August 2011, in other words, a year and a half ago. This was because, since the restitution of the victim's identity, there were concerns about the legal situation of

her children, because it would affect their school enrollment, in addition to other aspects that could also be affected, such as that she would be unable to leave the country with her children unless she was accompanied by her husband. In this regard, they asked the Court to find that this measure of reparation had been complied with partially and to require the State to expedite the remaining steps, including those relating to diplomatic coordination to rectify, promptly and duly, the marriage certificate of Gregoria Herminia Recinos Contreras and the birth certificates of her children. Regarding the State's obligation to guarantee the return of Gregoria Herminia Recinos Contreras to El Salvador, the representatives expressed their concern that the State was interpreting the Court's decision erroneously. In this regard, the representatives considered that the State must take into account that the silkscreen workshop is the family's only means of subsistence and, as such, they must be ensured in El Salvador at least the same living conditions they have in the Republic of Guatemala. In addition, they advised that the victim had appreciated the State's proposal that she live near her brother Serapio Cristian Contreras, in the city of San Vicente. However, they are still waiting for the above-mentioned proposal of a house. Accordingly, they asked the Court to find that this element of the measure of reparation had not been fulfilled, to reiterate to the State its obligation to comply with it, including an appropriate interpretation of the meaning of the phrase "to guarantee the conditions for the return of [the victim]."

26. The Commission assessed positively the measures taken by the State as regards the restitution of the identity of Gregoria Herminia Recinos Contreras. However, it observed that, to date, it has not been possible to modify the personal data on either her marriage certificate or on the birth certificates of her children, and it awaited the adoption or coordination measures with the State of Guatemala in order to facilitate the modification of the said registrations. In addition, it observed that Gregoria Herminia Recinos Contreras has expressed her interest in returning to El Salvador and took note of the State's offer to provide her with appropriate psychosocial assistance and to pay the expenses of moving her and her family. Furthermore, it awaited information on the State's proposal to provide the victim with a house.

27. First, the Court recalls that, during the public hearing held in the proceedings on merits and eventual reparations, the victim stated "my actual name is Gregoria de Jesús Molina and I would like to have my real first name with my real surnames." In this regard, expert witness María Sol Yáñez indicated the importance of the real name and the need for it in her rehabilitation.¹⁵ This Court takes note of all the measures taken by the State in order to achieve the restitution of the identity of Gregoria Herminia Recinos Contreras in the Republic of El Salvador, which concluded with the registration of her birth under the name given to her by her biological parents and the issue of both a new identity document and a passport. Consequently, the Court considers that El Salvador has complied with this aspect of the Judgment, subject to its jurisdiction, and emphasizes the important that compliance with this measure has for the victim.

28. Furthermore, the Court appreciates the measures taken by the State in order to coordinate cooperation with the Republic of Guatemala so as to facilitate the correction of the identity of Gregoria Herminia Recinos Contreras in that country, and recalls that the result of this measure of reparation does not depend strictly on El Salvador, but rather compliance with this aspect of the Judgment is contingent on the efforts made by a third State. Consequently, and in order to have additional information that allows it to monitor this aspect of the reparation satisfactorily, the Court finds it essential that the State

¹⁵ Cf. *Case of Contreras et al. v. El Salvador. Merits, reparations and costs*. Judgment of August 31, 2011. Series C No. 232, para. 194.

immediately increase and expedite the measures adopted to date to ensure diplomatic coordination and cooperation so as to obtain the modification of the data that currently appears on the victims' marriage certificate and on the birth certificates of her children as soon as possible. Thus, the Court awaits updated information concerning the measures taken in this regard.

29. Lastly, in relation to the obligation to guarantee the conditions for the return to El Salvador, the Court takes note that Gregoria Herminia Recinos Contreras has expressed her wish to return to El Salvador. In this regard, it assesses positively the State's willingness: (a) to assume its obligation to provide appropriate psychosocial assistance and pay the expenses of moving the victim and her family; (b) to assume the necessary support and coordination to regularize all the migratory aspects in El Salvador of the victim and her family, and (c) to offer a possible house located in the department of San Vicente, place of residence of her brother Serapio Cristian Contreras. Consequently, and in keeping with the information presented by the parties, the Court awaits updated information concerning the measures taken to comply with this aspect of this reparation.

30. Based on all the above, the Court considers that the State has complied fully with its obligation to adopt all the necessary and appropriate measures to restore the identity of Gregoria Herminia Recinos Contreras, including her first and last names, and other personal information in El Salvador. In addition, it finds that, despite the progress reported, the obligation to activate and use the available diplomatic mechanisms to coordinate cooperation with the Republic of Guatemala in order to expedite the correction of the identity of Gregoria Herminia Recinos Contreras, including her first and last names and other data in the records of that State, remains pending, as well as to guarantee the conditions for the return of Gregoria Herminia Contreras when she decides to return to El Salvador permanently.

d) Obligation to provide, immediately, medical and psychological and psychiatric treatment to the victims who request this and, as appropriate, pay the sum established to Gregoria Herminia Contreras, as established in the Judgment (fifth operative paragraph of the Judgment)

31. The State indicated that, in March 2011, in keeping with the obligation it had assumed since the initial processing of these proceedings, it commenced the measures of physical health care for the members of the Contreras, Mejía Ramírez and Rivera families, after coordinating with the representatives and based on a general medical evaluation of each person to determine their individual needs and requirements. This care is provided by three hospitals of the public health network located in the regions of the country corresponding to the place of residence of each family, where they are provided with doctors' appointments, medicines, periodic medical check-ups, and surgery and dental services. In addition, for the routine controls and treatment that does not need to be carried out in a hospital, they have access to health centers near their places of residence. The State was also continuing its seminars to train and raise the awareness of the medical, nursing, social work, administrative and legal hospital personnel with regard to the status of the patients as victims of human rights violations and the State's obligations. In addition, the State was seeking to promote "a methodology of supervising the health care services from the perspective of shared responsibility."¹⁶

¹⁶ In this regard, the State advised that in May 2012, a meeting was held in the Community Intermediate Health Unit (UCS) of Ciudad Arce, La Libertad, with the participation of one of the *Asociación Pro-Búsqueda* lawyers. At this meeting some incidents that had occurred during the treatment provided to Agustín Rivera Rivera and María Rivera Cartagena were discussed, and agreements were reached on the socialization of the case to the health personnel, the specific identification of the medical records of the patients, and the special collaboration of

32. The State also indicated that it was recently, on January 5, 2012, that the representatives advised that the victims had expressed their willingness to be attended by personnel of the Ministry of Public Health, but that the latter should receive training from Dr. María Sol Yáñez, who had been an expert witness before the Court during the proceedings, and who was sensitive to the problems concerning disappeared children. In February 2012, a meeting had been held “with all the interested parties” during which a proposal was validated to enhance the capacities of the health personnel in order to set up a “Program of Psychosocial Assistance for persons found and their families, as well as for the families of those who are still disappeared.” In this regard, once the institutional resources had been identified in the Health Ministry, a workshop was held in May and June 2012 entitled “Processes of psychosocial assistance for victims of human rights violations in the context of the armed conflict.” The State reported that it had identified health personnel who will be responsible for the psychosocial assistance to each family, and they will receive specific criteria and guidelines for this assistance from Dr. Yáñez. Likewise, the State indicated that it planned to organize a meeting in November 2012 to learn about the experiences of other countries in providing psychosocial assistance to victims. Furthermore, the State indicated that it had tried to provide Gregoria Herminia Recinos Contreras with health services when she was in the country, in the Community Family Health Unit of San Antonio de Abad, in San Salvador, where she had seen both doctors in general medicine and specialists, undergone laboratory tests, and been provided with medicines. Lastly, it indicated that it had established coordination with the Universidad de San Carlos de Guatemala, which had formally agreed to collaborate by providing dental care to Gregoria Herminia, under an agreement with the Universidad de El Salvador.

33. The representatives recognized that progress had been made in the Health Ministry's provision of medical attention to the victims in El Salvador. However, they indicated that the family members continued to face obstacles to receive priority attention, based on their condition as victims. In addition, some beneficiaries reported problems in relation to the availability and delivery of medical treatment and materials prescribed by specialists, so that several of them have had to use their own resources to pay for the medicines. They also reported that Margarita Rivera had been diagnosed as suffering from anxiety attacks, which needed to be treated inter-institutionally. They also indicated that they had not received a proposal of possible dates for the first meeting between the health personnel designated to be responsible for the psychosocial assistance to each family and the family members, to be facilitated by Dr. María Sol Yáñez, in order to start the corresponding treatment. Furthermore, they reported that, regarding the reunion with José Rubén Rivera Rivera, members of his family were receiving psychosocial assistance from the National Search Commission, and that it was essential that the State forward a report to the Court on the activities and progress in the psychosocial assistance to this family.

34. In addition, the representatives pointed out that Gregoria Herminia Recinos Contreras had expressed her wish to return to El Salvador; nevertheless, to date it had not been possible to accomplish her return. They also referred to the need for the victim to receive medical dental treatment, and confirmed that she had received attention on January 9 and 10, 2012, during a visit to El Salvador, mainly to take steps related to the restitution of her identity. However, she would need a specific treatment that required more time than

the *Asociación Pro-Búsqueda* in raising the awareness of the victims with regard to their responsibility to take care of their health and the appropriate use of the institutional services. A meeting was also held with this Association in the Community Health Unit of San Carlos Lempa, in San Vicente, during which the medical histories were revised and information was received on the medical care provided to María Maura Contreras, Rubén de Jesús López Contreras, Fermín Recinos, Julia Gregoria Recinos, Sara Margarita López Contreras and Santos Antonio López Contreras.

she could spend in El Salvador. In this regard, they explained that the victim had paid from her own resources for an appointment in Guatemala in order to undergo an evaluation. Nevertheless, when informing the State of the cost of the treatment, the latter stated that it could not assume this, because it was not a public service, and was not provided in El Salvador; moreover, the State had not even assumed the expenses of the said evaluation. Regarding the agreement signed with the Universidad de San Carlos de Guatemala, the representatives indicated that they had not been advised of the contact details of the person with whom the victim should communicate in order to start the treatment. They also indicated the victim's wish to receive psychological care promptly, and that she has not been able to receive this because it has not been possible to arrange her return to El Salvador. Therefore, they considered it necessary that the State deliver, as soon as possible, the sum of US\$7,500.00 (seven thousand five hundred United States dollars) mentioned in the Judgment, without prejudice to her being attended by the Salvadoran public health authorities when her return to El Salvador is arranged. Based on the foregoing, the representatives asked the Court to consider that this measure of reparation had not been fulfilled and to continue supervising compliance with it.

35. The Commission assessed positively the medical services offered by the State to the victims and recalled that the implementation of the health measures should be differentiated, individualized, preferential, comprehensive, and provided by specialized institutions and personnel. It also recalled that the attention should be provided promptly, avoiding subjecting the beneficiaries to bureaucratic processes or other types of procedures that obstruct their access to this attention. Accordingly, it considered that the Court should request the State to provide information regarding the measures taken: (i) to avoid the obstacles that some victims would have to accede to medical care, and (ii) to initiate the agreed psychosocial assistance to the victims and next of kin. In addition, regarding the situation of Gregoria Herminia Recinos Contreras, the Commission awaited information from the State regarding the execution of the payment established in the Judgment and the measures adopted to provide the required health services.

36. The Court appreciates the fact that the measures the State is taking to provide health care services are resulting in progress in the execution of this measure of reparation. These measures consist in: appointments with general and specialized medical personnel, delivery of medication, laboratory tests and their medical evaluation, surgery, and dental care. The Court also appreciates the fact that the State is making an effort to improve internal coordination so as to improve compliance with this measure of reparation. In addition, notwithstanding the provisions of paragraph 214 of the Judgment, the Court assesses positively and takes note of the agreements and coordination between the State and the representatives in order to set up a comprehensive program of psychosocial assistance and, in particular, that the professional who will be responsible for providing psychosocial assistance to each of the victim's families in the case has been identified.

37. Regarding the obstacles indicated by the representatives (*supra* para. 33), the Court recalls that, as decided in the Judgment (*supra* having seen paragraph 1), the State is obliged to "provide medical and psychological or psychiatric treatment to the victims who request it, free of charge, immediately, adequately and effectively [...]. The treatment must include the provision of the medication they may need, also free of charge, based on the ailments of each person,"¹⁷ for as long as necessary. Consequently, the Court asks the State to present updated information corroborating that the necessary treatment and

¹⁷ *Case of Contreras et al. v. El Salvador. Merits, reparations and costs. Judgment of August 31, 2011. Series C No. 232, para. 200.*

medication is being provided to the beneficiaries of this measure of reparation regularly, fully and effectively.

38. Nevertheless, the Court observes with concern that Gregoria Herminia Recinos Contreras has only been able to have access to medical care on the occasion of a visit to El Salvador, and that the parties have referred to her need to receive dental treatment. In this regard, the Court appreciates the coordination measures taken by the State under the agreement with the Universidad de El Salvador and the Universidad de San Carlos de Guatemala in order carry out the victims' dental treatment in the Republic of Guatemala. Despite this, and taking into account the observation of the representatives that it has still not been possible to implement the victim's wish to return to El Salvador, the Court considers it necessary that the State deliver to the victim, as established in paragraph 201 of the Judgment, the sum of US\$7,500.00 (seven thousand five hundred United States dollars) to cover the costs of the medical and psychological or psychiatric treatment, as well as the medicines and related expenses, in her actual country of residence, without prejudice to being treated by the public health authorities following her return to El Salvador.

39. Based on the above, the Court will continue monitoring compliance with this measure of reparation and awaits updated information from the State.

e) Obligation to make the publications established in the Judgment (sixth operative paragraph of the Judgment)

40. The State advised that, on March 29, 2012, the "National Day of the Children Disappeared during the Armed Conflict," it made the publication ordered in a supplement of a national newspaper, as well as in the Official Gazette. In addition, the official summary of the judgment has been available in the format of a digital file on the website of the Ministry of Foreign Affairs of El Salvador since April 18, 2012, and the publication of the complete judgment has been available since September 2012 on the official website of the National Search Commission. The State also indicated that, in Note No. 1210 of March 23, 2012, instructions were imparted to the Joint Chiefs of Staff of the Armed Forces, as well as to the different branches and units that provide institutional support, that officers, non-commissioned officers and soldiers should be informed of the official summary of the judgment, and that it should be published before April 6, 2012. This was done within the established time frame.

41. The representatives indicated that the margins of the supplement to the national newspaper with widespread circulation were incomplete and it was not possible to identify the newspaper in which it was published. Consequently, they could not refer to this measure until they had all the information, and were therefore waiting for the State to forward a complete version of the said supplement, which would allow them to determine the newspaper in which the publication had been made. Nevertheless, they acknowledged the information provided by the State regarding the publication of the official summary of the Judgment on the website of the Ministry of Foreign Affairs as of April 18, 2012, and the publication of the complete Judgment on the website of the National Search Commission since September 2012. Regarding the State's obligation to publish the official summary of the Judgment in an internal bulletin of the Armed Forces of El Salvador, they asked the Court to require the State the present the following documents. Note No. 1210, the document in which the said summary was published, and the note in which the Vice Minister advised that the measure had been complied with. Consequently, they asked the Court to consider that this measure of reparation had been fulfilled, when the State had forwarded the required documents.

42. La Commission observed that the State had published the official summary of the Judgment in the Official Gazette of El Salvador, in *La Prensa Gráfica* and on at least one official website and, to enable the Court to consider that this obligation had been complied with fully, it considered relevant that the State forward information concerning the effective dissemination of the Judgment within the Armed Forces.

43. The information available indicates that the State published the summary of the Judgment in the Official Gazette on March 29, 2012, in the terms established by the Court, as well as on the official website of the Ministry of Foreign Affairs of El Salvador.¹⁸ Furthermore, copies of the publication of the official summary of the Judgment made in a national newspaper were also provided. The State has also published the complete Judgment on an official website.¹⁹ In the understanding that the latter will be available for a year as of its publication, the Court assesses the State's efforts positively and considers that it has complied fully with the measures ordered in paragraph 203 of the Judgment.

44. Nevertheless, regarding the publication ordered in paragraph 204 of the Judgment, this Court finds that El Salvador must forward information, including the corresponding copies, that accredit the publication of the official summary of the Judgment prepared by the Court, once, in an internal bulletin of the Armed Forces of El Salvador. Consequently, it will keep open the monitoring procedure as regards this publication.

f) Obligation to organize a public act to acknowledge international responsibility for the facts of this case (seventh operative paragraph of the Judgment)

45. The State reported that the public act to acknowledge responsibility took place on October 29, 2012, in the "Antonio José Cañas" Park in the city of San Vicente, as requested by the victims. The act took the form of a public ceremony with the presence of high-ranking public officials and the victims of the case, including Gregoria Herminia Recinos Contreras – with the State assuming the travel costs for her and her family from Guatemala – Serapio Cristian Contreras, María Maura Contreras, Margarita Rivera and Arcadia Ramírez, the parents of the young people who had been found, and other family members. The ceremony was televised in real time by Channel 10 of the National Television Service, as well as on the website of the Ministry of Foreign Affairs of El Salvador.

46. The representatives acknowledged and appreciated the organization of the public act held on October 29, 2012, "even though it was carried out with a slight delay." However, they indicated that the video of the public act to acknowledge international responsibility "has several audio and video problems that make it difficult to view it properly," and that they were awaiting the transmittal of a new version by the State. Consequently, they asked the Court to consider that this measure of reparation had been fulfilled when it had received the copy of the said video.

47. The Commission appreciated the efforts made by the State and considered that it had complied with this measure of reparation.

¹⁸ At the following site: <http://www.rree.gob.sv/index.php?/item/el-estado-de-el-salvador-publica-el-resumen-oficial-de-la-sentencia-del-caso-contreras.php>. Last visited on May 14, 2013. The Court is aware that the said publication was not precisely ordered by the Court in the Judgment, so that it greatly appreciates the State's efforts and willingness in this regard.

¹⁹ At the following site: http://www.cnbelsalvador.org/index.php?option=com_rokdownloads&view=file&Itemid=35&id=30%3Asentencia-caso-contreras. Last visited on May 14, 2013.

48. In this case, and based on the available information, it is observed that the act to acknowledge responsibility organized in the domestic sphere was carried out as follows: (a) it was agreed with the victims; (b) it was public; (c) responsibility for the forced disappearance of the victims and other violations established in the Judgment was acknowledged; (d) high-ranking State officials were present; (e) some of the victims and their family members were present; (f) it had national coverage and dissemination, and (g) the travel expenses of Gregoria Herminia Recinos Contreras and her family group were assumed by the State. In this regard, the Court finds that the ceremony organized by El Salvador was appropriate and proportionate to the severity of the violations that the act was intended to redress, and that it had the effect of recovering the memory and recognizing the dignity of the victims. Accordingly, the Court assesses the State's efforts positively and considers that the seventh operative paragraph of the Judgment has been complied with fully.

g) Obligation to designate three schools: one with the name of Gregoria Herminia, Serapio Cristian and Julia Inés Contreras, another with the name of Ana Julia and Carmelina Mejía Ramírez, and a third with the name of José Rubén Rivera Rivera (eighth operative paragraph of the Judgment)

49. The State reported that it had held meetings with the representatives during which proposals to comply with this measure have been evaluated, with the representatives presenting modifications to the initial proposals at least twice, owing to the change in domicile of one of the families, and based on consultations at different times with the members of the Contreras family. In this regard, the State had received the proposal on the content of the plaques to be unveiled in the schools on November 1, 2012.

50. The representatives explained that, after consulting the families in July, they had presented an initial written proposal for the designation of the three schools with the names of the children in this case. The proposal was modified because, that same month, Serapio Cristián Contreras was found and he asked that the school where his son and daughter were studying in the city of San Vicente be chosen; the State was advised of this on September 6, 2012, once María Maura Contreras and Gregoria Herminia Recinos Contreras had given their agreement. In the case of the Mejía Ramírez family, "a different school from the one originally suggested was proposed, because the first one was located in Cerro Pando canton, a place where few families live, while the new one is located in the San Francisco Gotera, department of Morazán." The final proposal was presented on September 20, 2012, and, to date, the State had not forwarded information on the schools that were approved. The representatives also indicated that, on October 30, 2012, they had presented to the State their proposal for the content of the plaques to be unveiled in each school, without having received any reply on this point. Consequently, they asked the Court to consider that this measure of reparation had not been complied with, to continue monitoring this measure of reparation, and to urge the State to expedite the pending measures in order to implement it promptly.

51. The Commission noted that the State had indicated that it was taking the necessary steps to comply with this aspect of the Judgment. It awaited compliance within the two-year time frame established by the Court and the corresponding information from the State.

52. The Court assesses positively that El Salvador was taking the necessary steps to comply with this measure of reparation, and notes that the practical effect of this measure of satisfaction depends, to a great extent, on coordination between the State and the victims. Consequently, the Court urges the State to take all the pending measures in order to comply with this measure and decides that the State must present complete, detailed

and updated information on the steps taken, forwarding a copy of the corresponding documents.

h) Obligation to make an audio-visual documentary on the forced disappearance of children during the armed conflict in El Salvador with specific mention of this case, which includes the work carried out by the Asociación Pro-Búsqueda de Niños and Niñas Desaparecidos (ninth operative paragraph of the Judgment)

53. The State reported that it had commenced the necessary coordination with the Communications Secretariat of the Presidency, with which it is working on the planning stage for producing the documentary video in which the participation of the victims and their representatives will be ensured.

54. The representatives appreciated the commencement of coordination by the State and awaited official information regarding the effective implementation of the measure of reparation. Accordingly, they asked the Court to consider that this measure had not been complied with and to continue monitoring it until it had been accomplished completely and satisfactorily.

55. The Commission took note that the State had indicated that it was taking the necessary steps to comply with this aspect of the Judgment and awaited compliance within the two-year time frame established by the Court and the corresponding information from the State.

56. The Court assesses positively that El Salvador is taking the necessary steps to comply with this measure of reparation, and urges the State to take all the measures that remain pending in order to comply with the measure. Consequently, it decides that the State must present complete, detailed and updated information on the steps taken, forwarding a copy of the corresponding documents.

i) Obligation to adopt the pertinent and appropriate measures to guarantee to agents of justice, as well as to Salvadoran society, public, technical and systematized access to the archives that contain useful information that is relevant to the investigation in cases prosecuted for human rights violations during the armed conflict (tenth operative paragraph of the Judgment)

57. The State affirmed that the approval of the Law on Access to Public Information, which entered into force on April 8, 2011, guaranteed access to useful and relevant information that could be required by judicial order or by institutions with the authority to conduct investigations, such as the Prosecutor General's Office and the Ombudsman's Office, the latter in the context of the investigation procedure into presumed human rights violations. In addition, it indicated that the National Search Commission was empowered to inspect documentary records or archives of State institutions that are part of the Executive Branch, especially records or archives of military or police institutions, detention centers or prisons that operated between January 1, 1977 and January 16, 1992. According to the State, this law establishes an internal mechanism for access to the information of State entities – which is guaranteed in its article 19, should confidentiality be claimed – “in the case of the investigation of grave violations of fundamental rights or crimes with international transcendence.” In addition, according to the provisions of this law, public information access units, responsible for handling requests for information, have been created in each institution obliged to provide this. Lastly, the State advised that it was

working on the creation of the Institute for Access to Public Information, entity responsible for monitoring the application of the law, and that significant progress had already been made in standardizing official information and uploading it onto the institutional websites in order to comply with national and international requirements concerning access to public information.

58. The representatives indicated that, although the State's report referred to the adoption and entry into force of the Law on Access to Public Information, "more than 18 months after its entry into force, the Institute for Access to Public Information had still not been created, because the members of this entity had not been appointed, and it had not even been allocated a budget." Thus, even with the law in force, "it is not possible" to exercise the right of access to public information, and that this right guarantee the opening of the military archives that would be useful and relevant in the search for the disappeared children. They also indicated that they were unaware whether, to date, the National Search Commission had exercised its authority "to inspect documentary records or archives of State institutions that are part of the Executive Branch, especially records or archives of military or police institutions, detention centers or prisons that operated between January 1, 1977 and January 16, 1992." Consequently, the representatives indicated "that the measures reported by the State have not been effective to guarantee" this measure of reparation, and asked the Court to require the State to provide a complete and detailed report on the specific actions that it would be taking to comply with this measure of reparation.

59. The Commission reiterated the importance of this obligation, "because access to the State's archives is a fundamental tool in the context of investigations into human rights violations." In this regard, it considered that the necessary conditions must be established for those archives to be made available to all public agents involved in the investigations related to this case. Thus, it asked that the State present information concerning the steps taken to ensure satisfactory implementation of the Law on Access to Public Information, in particular: (i) the creation of the Institute for Access to Public Information; (ii) the assignment of officials and a budget so that it can start functioning, and (iii) the work of the access to public information units. In addition, the Commission considered that the State must provide detailed information on the mechanism used by the National Search Commission to access the State archives in cases of human rights violations.

60. The Court recalls that, in this case, it was proved: that the authorities of the Armed Forces and of the Ministry of Defense systematically refused to provide the Public Prosecution Service with information and with access to military archives and files; that this pattern continued from the time of the initial steps taken in the domestic investigations in 1997 and up until the final steps taken in 2010, and that this constituted one of the constraints to making progress in the investigations.²⁰ The purpose of this guarantee of non-repetition is to eliminate the legal and factual obstacles and mechanisms that prevent the authorities responsible for conducting the investigations from having access to information that would be useful for their investigations, as well as preventing Salvador society in general from having access to this information.

61. In this regard, it is also pertinent to recall that the State had advised that that the Law on Access to Public Information was in force prior to the delivery of the Judgment in

²⁰ Cf. *Case of Contreras et al. v. El Salvador. Merits, reparations and costs*. Judgment of August 31, 2011. Series C No. 232, paras. 169 and 212.

this case, and this information was assessed when ordering this measure of reparation.²¹ Now, in the context of monitoring compliance with the Judgment and as relevant in the context of this measure of reparation, the Court underscores that the State advised that it had not yet created the Institute for Access to Public Information, which would be responsible for ensuring the application of the law with a broad range of powers. Consequently, the information provided does not allow this Court to evaluate how, at the present time, the said law is guaranteeing effectively to both agents of justice and to Salvadoran society, public, technical and systematized access to the archives that contain useful and relevant information for the investigation in proceedings opened for human rights violations during the armed conflict.

62. The State also reported that the National Search Commission for Children Disappeared during the Armed Conflict was empowered to inspect documentary records or archives belonging to the Executive Branch, especially documentary records or archives of military or police institutions, detention centers or prisons that operated between January 1, 1977 and January 16, 1992. However, based on the information provided by the State, the Court is unable to verify whether the National Search Commission has indeed requested information from the military authorities in the context of the investigations conducted to determine the whereabouts of the victims in this case and whether the said request received a satisfactory answer. In other words, whether the said powers have been used in this case.

63. In this regard, the information provided by the State is insufficient, because it does not allow the Court to assess whether any progress has been made in this aspect of the Judgment; consequently, it will continue monitoring compliance with this measure. Therefore, the Court finds it necessary that El Salvador forward complete, detailed and recent information on the actions taken to comply with the measure of reparation, forwarding a copy of the corresponding documents. In particular, the State should provide information on: (a) the measures taken by the State to ensure effective public, technical and systematized access to the archives that contain useful information that is relevant for the investigation in proceedings opened for human rights violations during the armed conflict, and (b) whether in the context of its functions and of the investigations it is conducting to determine the whereabouts of Julia Inés Contreras, Ana Julia Mejía Ramírez and Carmelina Mejía Ramírez, the National Search Commission for Children Disappeared during the Armed Conflict has asked to inspect documentary records or archives of military or police institutions, detention centers or prisons that operated between January 1, 1977 and January 16, 1992, as well as the response received to the said requests.

j) Obligation to pay the amounts established in the Judgment, as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, as applicable (eleventh operative paragraph of the Judgment)

64. The State advised that the 2012 National Budget had already been prepared at the time the Judgment was notified so that the payment obligation had been incorporated into the Budget for 2013.

65. The representatives recalled that, when the time frame indicated by the Court for the payment of the amounts established in the Judgment is not respected, the State must pay the interest corresponding to the time that it is in arrears. Therefore, they asked the Court

²¹ Cf. *Case of Contreras et al. v. El Salvador. Merits, reparations and costs*. Judgment of August 31, 2011. Series C No. 232, para. 211.

to consider that this measure of reparation had not been complied with, and to reiterate to the State that it should execute it promptly and satisfactorily.

66. The Commission took note that the State had indicated that it was taking the necessary steps to comply with this aspect of the Judgment and, since the time frame for compliance had expired, it considered relevant that the Court require the State to provide updated information on the payment of the amounts established in its Judgment.

67. The Court observes that the period of one year from notification of the Judgment established for making the payment and deposit of the amounts determined as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, as appropriate, had expired, without these obligations having been met. Since the State has fallen into arrears, the Court notes that, pursuant to paragraph 249 of its Judgment (*supra* having seen paragraph 1), “[i]f the State falls into arrears with its payments, it shall pay interest on the amount owed corresponding to the Salvadoran bank interest rate on arrears.” In this regard, the State should indicate in which month of the current year it will make the payments and the deposits, and present complete, detailed and updated information on the actions taken to comply with this measure of reparation, forwarding copies of the corresponding documents.

k) Regarding other institutional measures reported

68. The State advised that “in order to strengthen investigation capacities in cases such as those that concern us, the Institute of Forensic Medicine, attached to this country’s Judiciary, plans to set up a Forensic Anthropology Investigation Unit and to organize a genetic database that will assist in the investigation of cases of forced disappearance of children, missing adults and exhumations.” For their part, the representatives observed that the information provided by the State that the Institute of Forensic Medicine, attached to the country’s Judiciary, planned to set up a Forensic Anthropology Investigation Unit and to organize a genetic database could best be provided to the Court in the proceeding of monitoring compliance with judgment in the *Case of the Serrano Cruz Sister v. El Salvador*. The representatives also underscored the importance of the State’s announcement; however, they indicated that they had been informed of the decision to remove the Director of the Institute of Forensic Medicine, which would probably have repercussions on the information provided by the State. The Commission considered that it would be relevant, in relation to the search for the whereabouts of the victims, to have recent information on the steps taken to create the Forensic Investigation Unit and on the implementation of the genetic database for disappeared persons. The representatives also highlighted that, although the National Search Commission had been created specifically to comply with a measure of reparation ordered in the *Case of the Serrano Cruz Sisters v. El Salvador*, its satisfactory functioning would have a direct impact on the search for the victims who disappeared in this case. This was verified by the fact that, during the litigation, the State indicated that the said measure would be complied with through this institution.

69. Since the “establishment of a national search commission to trace the young people who disappeared during the armed conflict when they were children, with the participation of civil society,” as well as the “creation of a system of genetic information,” are part of a specific operative paragraph of the judgment in the *Case of the Serrano Cruz Sisters*,²² the Court reiterates that “compliance with what the Court ordered is still being evaluated during the stage of monitoring compliance with judgment.” Also, the Court recalls that, in the

²² Cf. *Case of the Serrano Cruz Sisters v. El Salvador. Merits, reparations and costs*. Judgment of March 1, 2005. Series C No. 120, seventh operative paragraph.

Judgment in the instant case, it did not find it pertinent to order the creation of an autonomous Institute of Anthropology and Forensic Genetics, "in the understanding that the contact with the families in order to interview their members, collect and update information, obtain details of the circumstances of the disappearance, and collect biological samples with the proper chain of custody must be part of the work performed by the National Search Commission and the genetic information system in order to permit the identification of a person or of human remains using the appropriate forensic methods."²³ Consequently, the Court will not rule on these aspects that were reported to it.

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) and 68(1) of the American Convention on Human Rights, 24 and 30 of its Statute, and 31(2) and 69 of its Rules of Procedure,²⁴

DECLARES THAT:

1. As indicated in considering paragraphs 18, 22, 27, 30, 43 and 48 of this Order, the State has complied fully with the following measures of reparation ordered in the Judgment:

- a) To determine the whereabouts of Serapio Cristian Contreras and José Rubén Rivera Rivera (*third operative paragraph of the Judgment*);
- b) To take all the appropriate and necessary measures to restore the identity of Gregoria Herminia Contreras, including her first and last name, as well as other personal information in the Republic of El Salvador (*fourth operative paragraph of the Judgment*);
- c) To make the publications in the Official Gazette, in a national newspaper with widespread circulation, and on an official web site (*sixth operative paragraph of the Judgment*), and
- d) To organize a public act to acknowledge its international responsibility for the facts of this case (*seventh operative paragraph of the Judgment*).

2. In order to monitor full compliance with the Judgment handed down in this case, and having examined the information provided by the State, the representatives, and the Commission, the Court will keep open the proceeding of monitoring compliance with the aspects pending full compliance in this case, namely:

- a) To continue effectively and with the greatest diligence and within a reasonable time, the investigations it has commenced, as well as initiate any others necessary in order to identify, prosecute and, as appropriate, punish all those

²³ *Case of Contreras et al. v. El Salvador. Merits, reparations and costs.* Judgment of August 31, 2011. Series C No. 232, paras. 216 and 217.

²⁴ The Court's Rules of Procedure approved by the Court at its eighty-fifth regular session held from November 16 to 28, 2009.

responsible for the forced disappearances of Gregoria Herminia Contreras, Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera, as well as other related illegal acts (*second operative paragraph of the Judgment*);

b) To conduct, as soon as possible, a genuine search, in which it makes every effort to determine the whereabouts of Serapio Cristian Contreras, Julia Inés Contreras, Ana Julia Mejía Ramírez, Carmelina Mejía Ramírez and José Rubén Rivera Rivera; to assume the expenses of the family reunion of José Rubén Rivera Rivera; and to order measures to restore the identity of Serapio Cristian Contreras and José Rubén Rivera Rivera and to make the efforts required to facilitate their family reunion with the necessary psychosocial attention, should they so wish (*third operative paragraph of the Judgment*);

c) To activate and use the available diplomatic mechanisms to coordinate cooperation with the Republic of Guatemala in order to facilitate the correction of the identity of Gregoria Herminia Contreras, including her first and last name and other data, in the records of that State; as well as to guarantee the conditions for the return of Gregoria Herminia Contreras (*fourth operative paragraph of the Judgment*);

d) To provide, immediately, medical and psychological or psychiatric treatment to the victims who request this and, if necessary pay the amount established to Gregoria Herminia Contreras, as established in the Judgment (*fifth operative paragraph of the Judgment*);

e) To publish the official summary of the Judgment in an internal bulletin of the Armed Forces of El Salvador (*sixth operative paragraph of the Judgment*);

f) To designate three schools: one with the name of Gregoria Herminia, Serapio Cristian and Julia Inés Contreras, another with the name of Ana Julia and Carmelina Mejía Ramírez, and a third with the name of José Rubén Rivera Rivera (*eighth operative paragraph of the Judgment*);

g) To make an audio-visual documentary on the forced disappearance of children during the armed conflict in El Salvador, with specific mention of this case, which includes the work of the *Asociación Pro-Búsqueda de Niños and Niñas Desaparecidos* (*ninth operative paragraph of the Judgment*);

h) To adopt the pertinent and appropriate measures to guarantee to agents of justice, as well as to Salvadoran society, public, technical and systematized access to the archives that contain useful information that is relevant to the investigation in cases prosecuted for human rights violations during the armed conflict (*tenth operative paragraph of the Judgment*), and

i) To pay the amounts established in the Judgment, as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, as applicable, in the terms of paragraphs 243 to 249 thereof (*eleventh operative paragraph of the Judgment*).

AND DECIDES:

1. That the State of El Salvador must adopt all necessary measures to comply promptly and effectively with the pending aspects indicated in the second declarative paragraph *supra*, as stipulated in Article 68(1) of the American Convention on Human Rights.

2. That the State of El Salvador must present to the Inter-American Court of Human Rights, by September 16, 2013, at the latest, a report indicating all the measures adopted to comply with the reparations ordered by this Court that remain pending, as indicated in the considering paragraphs 8 to 12, 19 to 22, 28 to 30, 36 to 39, 44, 52, 56, 60 to 63 and 67, as well as in the second declarative paragraph of this Order.

3. That the representatives of the victims and the Inter-American Commission on Human Rights must present any observations they deem pertinent on the State's report mentioned in the preceding operative paragraph, within four and six weeks, respectively, of notification of this report.

4. That the Secretariat of the Inter-American Court of Human Rights shall notify this Order to the State of El Salvador, the representatives of the victims, and the Inter-American Commission on Human Rights.

Diego García-Sayán
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Roberto de Figueiredo Caldas

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary