

Order of the
Inter-American Court of Human Rights
of November 17, 2004
Case of Las Palmeras v. Colombia
(Monitoring Compliance with Judgment)

HAVING SEEN:

1. The Judgment on the merits delivered by the Inter-American Court of Human Rights (hereinafter the "Court") of December 06, 2001, where it unanimously:

DECLAR[ED]:

1. That the State's responsibility for the deaths of Artemio Pantoja Ordóñez, Hernán Javier Cuarán Muchavisoy, Julio Milciades Cerón Gómez, Wilian Hamilton Cerón Rojas and Edebraes Norberto Cerón Rojas, corresponding to the violation of Article 4 of the American Convention on Human Rights, was established in the two definitive judgments delivered by the Administrative Law Court of the Council of State on December 14, 1993 and January 15, 1996

[AND] DECID[ED]:

2. That the State [was] responsible for the death of NN/Moisés or NN/Moisés Ojeda, in violation of Article 4 of the American Convention on Human Rights

3. That there [was] insufficient evidence to determine whether Hernán Lizcano Jacanamejoy died in a skirmish or was extrajudicially executed by agents of the State, in violation of Article 4 of the American Convention on Human Rights.

4. That the State violated, to the detriment of the relatives of Artemio Pantoja Ordóñez, Hernán Javier Cuarán Muchavisoy, Julio Milciades Cerón Gómez, Wilian Hamilton Cerón Rojas, Edebraes Norberto Cerón Rojas, NN/ Moisés or NN/ Moisés Ojeda and Hernán Lizcano Jacanamejoy, the right to a judicial guarantees and to judicial protection, recognized in Articles 8(1) and 25(1) of the American Convention on Human Rights.

5. To open the reparations phase, to which end it commissions its President to duly adopt any measures necessary.

2. The Judgment on Reparations delivered by the Court in the instant case on November 26, 2002, in whose operative paragraphs it unanimously

DECID[ED]:

[...]

1. That, pursuant to the terms of paragraphs 67 to 70 of the [...] Judgment, the State must effectively complete the ongoing criminal proceedings pertaining to the death of the victims and which generated violations of the American Convention in the instant case, identify the principals and their aiders and abettors, as well as possible accessories after the fact, and punish them, and publish the results of the proceedings.

2. That, pursuant to paragraphs 71 to 73 of the [...] Judgment, the State must take all necessary steps to identify NN/Moisés, within a reasonable time, as well as locate, exhume, and deliver his remains to his next of kin. The State must also apply all means necessary to locate the next of kin of NN/ Moisés, for which it must publish an announcement, at least three non-consecutive days, in a newspaper and broadcast on a

radio and a television station, all of them with national coverage, explaining that the next of kin of the victim are being searched for to pay them compensation regarding the facts in the instant case, that took place on January 23, 1991 in the village of Las Palmeras, Municipality of Mocoa, Department of Putumayo.

3. That the State must publish once, in the daily Official Gazette and in a press release of the National Police and of the Armed Forces of Colombia, the judgment on the merits issued by the Court on December 6, 2001 and chapter VI, Proven Facts, and operative paragraphs 1 to 4 of the instant judgment, pursuant to the terms of paragraph 75 of the latter.

4. That the State [should] return the remains of Hernán Lizcano Jacanamijoy to his next of kin, for them to bury them in an appropriate manner, pursuant to the terms of paragraphs 76 and 77 of the [...] Judgment.

5. That the State of Colombia [...]should] pay US\$ 100,000.00 (one hundred thousand United States dollars), or its equivalent in Colombian currency, to the next of kin of NN/Moisés, who must appear before the State within 24 months of the date when said person is identified, and must supply authentic evidence of their ties with the victim to receive the respective compensation, pursuant to the terms of paragraph 47 of the [...] Judgment.

6. That the State of Colombia [...]should] pay US\$ 139,000.00 (one hundred and thirty-nine thousand United States dollars) or the equivalent amount in Colombian currency, as compensation for the damage in connection with violation of Articles 8(1) and 25(1) of the American Convention on Human Rights. Said amount [...]should] be paid to the next of kin of Julio Milciades Cerón Rojas, Wilian Hamilton Cerón Rojas, Edebraes Norverto Cerón Rojas, Hernán Javier Cuarán Muchavisoy, and Artemio Pantoja Ordóñez, pursuant to the terms of paragraphs 56 to 58 of the [...] Judgment.

7. That the State of Colombia [...]should] pay US\$ 14,500.00 (fourteen thousand five hundred United States dollars) or the equivalent amount in Colombian currency, as compensation for damage in connection with violation of Articles 8(1) and 25(1) of the American Convention on Human Rights. Said amount [...]should] be paid to the next of kin of Hernán Lizcano Jacanamijoy, pursuant to the terms of paragraphs 59 and 60 of the [...] Judgment.

8. That the State of Colombia, pursuant to the terms of paragraph 61 of the [...] judgment, [...]should] pay US\$ 6,000.00 (six thousand United States dollars) or US\$ 2,500.00 (two thousand five hundred United States dollars) or the equivalent amount in Colombian currency, as appropriate

9. That the State of Colombia, pursuant to the terms set forth in paragraph 84 of the [...] Judgment, must pay, as reimbursement for legal costs and expenses, US\$ 50,000.00 (fifty thousand United States dollars) or the equivalent amount in Colombian currency to the Colombian Commission of Jurists, and US\$ 1,000.00 (one thousand United States dollars) or the equivalent amount in Colombian currency to the Center for Justice and International Law (CEJIL).

10. That payments ordered in the [...] Judgment w[ould] be exempt from any existing or future taxes.

11. That the State of Colombia [...]should] comply with the measures of reparation ordered in the [...] Judgment within six months of the date when it is notified, except with respect to the provisions of paragraphs 47 and 61.

12. That within a year from the date when [...]the] Judgment is notified, the State [...]should] report to the Inter-American Court of Human Rights on actions taken to comply with it.

13. That the Inter-American Court of Human Rights w[ould] monitor compliance with this Judgment and w[ould]close the instant case once the State has fully applied the provisions set forth in it.

3. The brief of December 16, 2003, by means of which the State submitted its first report on the status of compliance with the November 26, 2002, Judgment (*supra* Having seen 2). Concerning operative paragraph one of the cited Judgment, it indicated that "Penal Circuit Court 41 was making progress into the trial stage for proven facts, in case 212-2001, against Jaime Alberto Peña-Casas *et al.*" As to steps taken in search for the remains and towards identification of NN/ Moisés, the State informed that the Office of the Prosecutor General of the Nation was making efforts intended to find the next of kin, deliver the remains and provide compensation to them. At the same time it informed that it had Published "the Judgment on the Merits and corresponding sections of the Judgment on Reparations, according to the requirements of the Inter-American Court, in edition No. 45.221 of the Official Gazette; in the "2002 Annual Report on Human Rights and International Humanitarian Law;" and in the 2003 issue of "Presidential Term Advances" of the Ministry of Defence. In addition, the State informed that the Ministry of Defence "issued a news bulletin prepared by the Public Information Office of the Comprehensive Action Department of the Supreme Command of the Armed forces." Concerning the provisions in operative paragraph four, that is, the return of the remains of Hernán Lizcano-Jacanamejoy to his relatives, the State indicated that the National Forensic Medicine and Science Institute, in co-ordination with the Office of the Prosecutor General of the Nation, would transport the remains to its Mocoa office and would then contact the next of kin of the victim to deliver such remains to them and proceed to the burial thereof, with the assistance of the National Police, which would cover the expenses. In like manner it pointed out that compliance with operative paragraph five, relative to reparations to the next of kin of NN/Moisés for loss of his life, was subject to identification of the latter. Colombia added that the "pertinent steps [...were] being taken [at...] the [Office of the Prosecutor General of the Nation and the Ministry of Defence], with the co-ordination of the Ministry of the Treasury and Public Credit, in order to formalise the payment of compensation." In accordance with the requirements in operative paragraphs six, seven, eight and nine of the Judgment on Reparations (*supra* Having seen 2), it expressed that said payments would be made jointly by the Ministry Defence and the Office of the Prosecutor General of the Nation on a percentage basis of 60% and 40%, respectively. The State pointed out, with respect to operative paragraph eight, that "if the petitioners felt that the competent authorities [to certify the relationship to the victims] were the judges and notaries public, the fact that they submitted again their claim to [the] Ministry [of Foreign Affairs] that, incidentally, is not the competent authority before which compliance with the requirements of the Inter-American Court had to be proven, is not understood." Despite the fact that it considers that the submissions of the petitioners before such Ministry were extemporaneous, Colombia indicated that it decided to pay the amounts in the claims put forth by the representatives of the next of kin of the victims (the Colombian Lawyers' Commission), which total US\$56,000.00 (fifty-six thousand United States of America dollars). Concerning the payment of expenses and legal costs ordered in the Judgment on Reparations, the State informed that such payment would be equally made by the Ministry of Defence and the Office of the Prosecutor General of the Nation according to the cited percentages. Lastly, it expressed that it would pay, as pertinent, bank delinquency interest charged.

4. The brief of February 03, 2004, by means of which the Commission submitted its observations to the State's first report. The Commission indicated that, on the basis of the information submitted by the State, it was not possible to conclude that the latter would have complied with its duty to solve judicially the serious crimes that were committed more than a decade ago in the instant case, and identify the

principals and their aiders and abettors, as well as possible accessories after the fact and bring them to trial. In turn, it requested the Court to “urg[e] the State to expedite the internal procedures required to comply with operative paragraph two [of the Judgment on Reparations (*supra* Having seen 2)] within a reasonable time” and to inform on the adoption of measures intended to locate the mortal remains of NN/Moisés and to identify him. Concerning operative paragraph three, the Commission pointed out that “it may be concluded, from the report of the [State] and its appendices, that the pertinent sections of the judgment on the merits have been published in the Official Gazette [and that] it has ascertained that the judgment was indeed published in the “Annual Report on Human Rights and International Humanitarian Law” of the Ministry of Defence [but that] it remains to be seen whether the purposes sought by means of this operative paragraph have been fulfilled through due dissemination and publicity of its contents.” In like manner, the Commission stated that the information provided by the State “d[id]. not contain details on the steps taken to comply with operative paragraph four,” for which reason it requested the Court to “maintain supervision of the judgment until the mortal remains of Mr. Hernán Lizcano-Jacanamejoy be actually delivered to his next of kin.” Concerning compliance with operative paragraph five, the Commission, taking into account that identification of NN/Moisés and his beneficiaries is still pending, requested the Court to maintain supervision with respect to this operative paragraph. As regards compliance with operative paragraphs six, seven, eight, nine and ten, the Commission took note of the steps initiated by the Ministry of Defence and the Office of the Prosecutor General of the Nation to pay compensation, expenses and legal costs as ordered by the Court, as well as delinquency charges applicable. The latter notwithstanding, it requested the Court to maintain supervision of the Judgment (*supra* Having seen 2), until compliance with all requirements was ascertained.

5. The brief of February 19, 2004, by means of which the representatives submitted their observations to the first report of the State. In this respect they pointed out that the State should expedite the procedures for the delivery of the mortal remains of Hernán Lizcano-Jacanamejoy, as well as for identification of both, the remains, and the next of kin of NN/Moisés. They likewise informed about the adoption, by the National Police, of Resolution number 00710 which provided for the payment, to all of the next of kin of the victim, of 60% of the compensation due plus delinquency interest to that date. They also informed that said resolution provided for the payment of 100% of the costs and expenditures recognised by the Court, and ordered the delivery to the petitioners of the compensation for the minor girls. The Resolution cautioned that the total amount of the money would be paid to the Colombian Lawyers’ Commission, by virtue of powers of attorney issued to them for such purposes. In this sense, the representatives expressed that they would give each family the amount of its compensation. They likewise stated that the Office of the Attorney General of the Nation had not provided for any payment for the compensation ordered by the Court, but that the National Police had done so. Concerning the identification and punishment of the principals and their aiders and abettors, as well as possible accessories after the fact, they pointed out that the State had not complied with such obligation, and that the assumption that only three persons were responsible for violations so serious of human rights, was not consistent with the truth of the facts established and proven by the Court. They further informed that the only person accused who was under custody was granted temporary freedom, and stated that nothing was done to revise the proceedings whereby the expiration of the penal action was declared. Lastly, the representatives expressed their disagreement with the way in which the publications of the judgment

were made, for which reason they requested the Court to declare non compliance with respect to this requirement.

6. The brief of March 25, 2004 and its appendices, by means of which the representatives informed about compliance with the Judgment on Reparations of November 26, 2002 (*supra* Having seen 2) and pointed out that its purpose was to “send to the Court [...] the report submitted to the Administrative and Financial Director of the National Police in connection with the investment or deposit certificate issued to the credit of the minor beneficiaries of the compensation provided for in the judgment of November 26, 2002: [...] Diana Vanessa Cuarán-Anaconda. Tequendama Bank, deposit No 0098551, for \$11,739,105.73 [,] Johana Carolina Lizcano-Sigindioy. Tequendama Bank, deposit No 0098550, for \$ 11,739,105.73. These securities were formulated in the terms and conditions indicated by the Inter-American Court of Human Rights in the Judgment [...] referred to. This information [...] was sent to the National Police department, such institution having covered 60% of the compensation obligations as per the copies append[ed]”

7. The communication of April 27, 2004, by means of which the State submitted an addendum to its last compliance with judgment report (*supra* Having seen 2), where it indicated that Penal Circuit Court 41 was initiating the trial phase on the facts in case 212-2001, against Jaime Alberto Peña-Casas *et al.* In this respect it pointed out that the answer from Penal Circuit Court 41 on the conclusion of the public hearing was still pending and that it would send it to the Court upon its receipt. In like manner it pointed out that the Office of the Prosecutor General of the Nation made arrangements “for publication in the *El Tiempo* newspaper, broadcasting through “Caracol” radio, transmission through the “Señal Colombia” institutional channel and publication through Intranet and the institution’s web page” of a communiqué requesting the presence of the next of kin of “the citizen known as ‘Moisés’.” Colombia further indicated that it had requested information from citizens who would know about the whereabouts of his next of kin. On the other hand, the State expressed that the communiqué was issued by the Supreme Command of the Armed Forces with the “intention and unequivocal purpose” of complying with the Court’s judgment. Additionally, it pointed out that the Annual Human Rights Report for the year 2000 was published in the web page of the Ministry of National Defence, which was one of the “institution’s mass media for communication with the community.” The State also informed that the National Forensic Medicine and Science Institute delivered the bones of Mr. Hernán Lizcano-Jacanamejoy to Ms. Inés Sigindioy and Ms. María Cordula Mora-Jacanamejoy and that, in like manner, a casket was given and a grave was made available to them for the burial of such remains. Lastly, it informed that it was taking the pertinent steps within the Office of the Attorney General of the Nation, with the co-ordination of the Ministry of the Treasury and Public Credit to formalise such part of the compensation payments as was pending.

8. The brief of June 01, 2004, by means of which the Commission submitted its observations to the State’s last report (*supra* Having seen 7). In said brief the Commission pointed out that it was waiting for more information on the conclusion of the public hearing of Penal Circuit Court 41 against Jaime Alberto Casas *et al.* It also indicated that the number of persons being prosecuted did “not reflect the adoption of exhaustive or comprehensive measures in administering justice in the current case vis-à-vis the facts proven before the [...] Court and the terms of its judgment.” It likewise added that the State had not informed the Court on efforts made to “correct the effects of expiration of the penal action in point.” In addition, the Commission

indicated that it ignored whether the State, through its different agencies, was taking other steps to locate NN/Moisés, and stated that it was appropriate to urge the State to increase its efforts to comply with such requirement. It also took note of the statement made by the representatives of the victims, in the sense that "it is clearly understood that the place where NN/Moisés was buried was the cemetery at Moca." The Commission expressed, in agreement with the representatives of the victims, that the publication in the Official Gazette "should have included an introduction to the judgment," with an explanation of its meaning. It further pointed out that the "communiqué of the Ministry of Defence does not have the same effect as a press release aimed at the Colombian society." Because of these reasons, the Commission shall consider that this operative paragraph must not be regarded as having been complied with, and that the Court should assess whether the measures adopted by the State fulfil the purpose and aim of operative paragraph three of the judgment (*supra* Having seen 2). With respect to operative paragraph four (*supra* Having seen 2), the Commission pointed out that it should be regarded as complied with [...] once it [...] bec[ame] possible to verify that the [...] State had covered the expenses for transportation, a grave and any other arrangement required to bury properly the remains of Hernán Lizcano-Jacanamejoy." Concerning compliance with operative paragraph five (*supra* Having seen 2), which depends directly on the identification of the remains of NN/Moisés, it expressed that it was necessary to wait for the information to be provided by the State on the steps taken in this respect. The Commission observed that, in spite of the information that the State had made available, "the amounts specified in operative paragraphs six, seven, eight and nine ha[d] not bee paid." It indicated that in accordance with the information provided by the State the resolutions mentioned covered only 60% of the total costs specified in the judgment. It stressed that the arrangements necessary to cover the remaining 40% were not made. The Commission motioned that supervision of compliance with these operative paragraphs continue until the total amount of such sums will have been paid to the beneficiaries.

9. On June 15, 2004, the representatives of the beneficiaries submitted their observations to the State's last report (*supra* Having seen 7). They pointed out that Colombia did not inform in a detailed and complete manner about the actions undertaken to comply with its obligations relative to the investigation, prosecution and punishment of all those responsible. They further indicated that neither did the State make efforts to investigate the alleged participation of army and Putumayo police officers in the events of this case, nor did it reactivate certain investigations that had been closed on the allegation that the cases had expired. They stressed, as the Commission did, that the allegation that only three persons were responsible for violations so serious of human rights was not consistent with the truth of the facts. With respect to the location of the next of kin of NN/Moisés, the representatives indicated that the publication of a notice as part of the search for the next of kin is insufficient to consider the obligation imposed on the State fulfilled, and further considered that it is not possible to expect the appearance of the next of kin of someone whose identity is unknown. They further stated that the State did not indicate in its report which actions the investigations department had undertaken to search, at the Mocoa cemetery, for the remains of NN/Moisés, and exhume and identify them. They similarly requested the Court that it require the State to submit proof of the notices published in connection with NN/Moisés. They also expressed that the Court's orders to have the judgment published had not been complied with, since the publication made did not contain an introduction that would explain to the readers which the purpose of this publication was. Concerning the Ministry of Defence's communiqué relative to a news bulletin the representatives stressed that

"it is intended only for the forces of law and order, and it is not a 'press release' as such aimed at the Colombian society at large." The representatives recognised that the State delivered the body of Mr. Hernán Lizcano-Jacanamejoy, but pointed out that it delivered it only to Ms. María Córdula Mora-Jacanamejoy, since Ms. Inés Sigindioy was not in town. They further requested that the State be required to comply adequately with the obligation to pay compensation due within the shortest possible time. Lastly, they expressed that "the payments that the National Police had to make and the adjustments required from this institution were already made and [...] they w[ould] send an independent and itemised report of such payments." They also indicated that "the Office of the Prosecutor General of the Nation h[ad] remained distant concerning compliance with the payment of compensation."

CONSIDERING:

1. That supervision of compliance with its orders is one of the attributions inherent to the Court's jurisdictional functions.
2. That Colombia has been a State Party to the American Convention on Human Rights since July 31, 1973, and that it recognised the contentious jurisdiction of the Court on June 21, 1985.
3. That 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 such effect, the States must ensure implementation, at the domestic level, of the requirements stated by the Court in its decisions.¹
4. That by virtue of the nature of the Court's judgments as final and not subject to appeal, as established in Article 67 of the American Convention, they must be promptly fulfilled by the State in all of their aspects.
5. That the obligation to comply with the orders of the Court corresponds to a basic principle concerning international State responsibility that is supported by international case law, according to which the States must undertake their conventional international obligations in good faith (*pacta sunt servanda*) and, as already pointed out by this Court and established by Article 27 of the 1969 Vienna Convention on the Law of Treaties, they may not invoke the provisions of their internal law as justification for failure to comply with their already established international responsibility.² The conventional obligations of the States Parties are binding to all branches and organs of the States.
6. That the States Parties to the Convention must ensure compliance with conventional provisions and their own effects (*effet utile*) at the level of their respective domestic legislations. This principle applies not only in relation to substantive provisions of human rights treaties (that is, those that contain provisions on protected rights), but also in relation to procedural rules such as those that refer

¹ Cf. *Case of Baena-Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131.

² Cf. *Case of Baena-Ricardo et al.*, *supra* note 1, para. 128; *Case of Barrios Altos*. Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 28, 2003, considering paragraph six; and *Case of Bámaca-Velásquez*. Compliance with Judgment of November 27, 2003, considering paragraph five.

to compliance with orders of the Court. These obligations must be interpreted and applied in such a way that the guarantee being thus protected be actually practical and effective, bearing in mind the special nature of human rights treaties.³

7. That States Parties to the Convention that have recognised the Court's contentious jurisdiction must comply with the obligations established by the Court. In this sense, the State must inform about measures adopted towards compliance with the orders contained in decisions of the Court. The timely observance of the State's obligation to inform the Court on how it is complying with each of its orders is basic to assess the status of compliance with the Judgment as a whole.

8. That having analysed the information submitted by the State (*supra* Having seen 3 and 7), the representatives (*supra* Having seen 9) and the Commission (*supra* Having seen 8), the Court has corroborated that Colombia is investigating the events related to the instant case as part of case 212-2001, being dealt with at Penal Circuit Court 41, a case which has, thus far, not been closed. Concerning the information submitted by the representatives and the Commission (*supra* Having seen 5, 8 and 9) on investigations filed as matters expired, concerning the alleged participation of army and Putumayo police officers, this Court, as it has established in its jurisprudence, considers that the State must guarantee internal proceedings intended to investigate all facts in the case and punish those responsible.⁴

9. That having analysed the information submitted by the State and the representatives (*supra* Having seen 7 and 9) on steps taken to identify and exhume the remains of NN/Moisés, the Court states that it does not have sufficient information concerning compliance with operative paragraph two of the Judgment of November 26, 2002 (*supra* Having seen 2).

10. That in conformity with the requirements in the Judgment of November 26, 2002 concerning the next of kin of NN/Moisés (*supra* Having seen 2), "once he has been identified, the Court deems it necessary for the State to allocate the resources required to locate said next of kin."⁵

11. That in supervising compliance with judgment in the instant case, the Court has verified that Colombia has started actions intended to pay compensation as established in the Judgment on Reparations in the instant case (*supra* Having seen 3, 5, 6 and 8). Nevertheless, it is also possible to conclude from the documentation relative to this case that the State has not paid such compensation in full, for which reason it is necessary that certification of payment in full be sent to the Court.

³ Cf. *Matters of: Lilliana Ortega et al., Luisiana Rios et al., Luis Uzcátegui, Marta Colomina and Lilliana Velásquez*. Provisional Measures. Order of the Inter-American Court of Human Rights of May 04, 2004, considering paragraph twelve; *Case of Baena-Ricardo et al. Competence*, *supra* note 1, para. 66; *Case of the Constitutional Court. Competence*. Judgment of September 24, 1999. Series C No. 55, para. 36; and *Case of Ivcher-Bronstein. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37. Likewise, *cf., inter alia, Case of the "Juvenile Reeducation Institute"*. Judgment of September 02, 2004. Series C No. 112, para. 205; *Case of the Gómez-Paquiyaury brothers*. Judgment of July 08, 2004. Series C No. 110, paragraphs 150 and 151; and *Case of Bulacio*. Judgment of September 18, 2003. Series C No. 100, para. 142. In this same sense, *cf. Klass and others v. Germany, (Merits) Judgment of 6 September 1978, ECHR, Series A no. 28, para. 34*; and *Permanent Court of Arbitration, Dutch-Portuguese Boundaries on the Island of Timor, Arbitral Award of June 25, 1914*.

⁴ Cf. *Case of Tibi*. Judgment of September 07, 2004. Series C No. 114, para. 259; *Case of the Gómez-Paquiyaury brothers*, *supra* note 3, para. 232; and *Case of the 19 Tradesmen*. Judgment of July 05, 2004. Series C No. 109, para. 263.

⁵ Cf. *Case of Las Palmeras*. Judgment of November 26, 2002. Series C No. 96, para. 72.

12. That having analysed the information submitted by the State, by the representatives of the victims and their next of kin, and by the Inter-American Commission, the Court has corroborated that, the State has complied with the requirements in operative paragraph three of the Judgment on Reparations (*supra* Having seen 2), as to publication of the December 06, 2001, Judgment on the Merits, and chapter IV entitled "Proven facts," as well as operative paragraphs 1 to 4 of said Judgment on Reparations.

13. That the State has likewise complied with the requirements in operative paragraph four of the Judgment on Reparations of November 26, 2002, (*supra* Having seen 2), in delivering the remains to Mr. Hernán Lizcano-Jacanamejoy to his next of kin.

14. That in supervising overall compliance with the Judgment on Reparations delivered in the instant case, and after having analysed the documents provided by the State, by the representatives of the victims, and by the Commission, the Court states that it does not have sufficient information on the following items pending, namely:

- a) proceedings conducted to investigate the facts of the instant case and to identify and punish those responsible (*Operative paragraph one of the November 26, 2002 Judgment*);
- b) proceedings required to identify NN/Moisés, within a reasonable time; to locate, exhume and deliver his remains to his next of kin; and to provide reparation to them in relation to the events in the instant case (*operative paragraphs two and five of the November 26, 2002, Judgment*); and
- c) payment of the sum owed by the State in relation to operative paragraphs 5, 6, 7, 8 and 9 of the November 26, 2002, Judgment (*supra* Having seen 2).

15. That the Court shall consider the overall status of compliance with its Judgments on the Merits and Reparations (*supra* Having seen 1 and 2), upon receipt of the pertinent information concerning measures not yet complied with.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to supervise compliance with its decisions pursuant to the provisions in Articles 33, 62(1), 62(3), 65, 67 y 68(1) of the American Convention on Human Rights, Articles 25(1) and 30 of the Statute of the Court, and Article 29(2) of its Rules of Procedure,

DECLARES:

1. That in conformity with the provisions in considering paragraphs twelve and thirteen of this Order, the State has fully complied with the requirements in operative paragraphs three and four of the Judgment on Reparations delivered by this Court on November 26, 2002.

2. That it shall maintain the supervision of compliance procedure concerning requirements still to be complied with in the instant case, such as:

- a) proceedings conducted to investigate the facts of the instant case and to identify and punish those responsible (*Operative paragraph one of the November 26, 2002 Judgment*);
- b) proceedings required to identify NN/Moisés, within a reasonable time; to locate, exhume and deliver his remains to his next of kin; and to provide reparation to them in relation to the events in the instant case (*operative paragraphs two and five of the November 26, 2002, Judgment*); and
- c) payment of the sum owed by the State in relation to operative paragraphs 5, 6, 7, 8 and 9 of the November 26, 2002, Judgment.

AND DECIDES:

1. To require the State to adopt all measures necessary to make promptly effective those reparations ordered by the November 26, 2002 Judgment that are still pending, in conformity with the provisions in Article 68(1) of the American Convention on Human Rights.

2. To request the State to submit to the Inter-American Court of Human Rights, no later than January 31, 2005, a detailed report indicating all measures adopted in compliance with the duty to investigate the facts, so as to determine who those persons responsible for human rights violations to whom reference was made in the Judgment on Reparations are, as well as to disseminate publicly the findings of such investigation, and to punish those responsible; the actions undertaken to locate the remains of NN/Moisés and his next of kin; and the steps taken by the State to pay the remainder of the total compensation amount ordered pursuant to the November 26, 2002, Judgment (*supra*, considering paragraph fourteen).

3. To request the representatives of the victims' next of kin and the Inter-American Commission on Human Rights to submit their observations to the State's report mentioned in the preceding operative paragraph, within four and six weeks, respectively, from the date of receipt of the report.

4. To continue supervising compliance with items pending from the Judgment on Reparations of November 26, 2002.

5. To notify this Order to the State, to the Inter-American Commission on Human Rights, and to the representatives of the victims and their next of kin.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary