

**Order of the
Inter-American Court of Human Rights
of July 1, 2009
Case of the Plan de Sánchez Massacre v. Guatemala
(Monitoring Compliance with Judgment)**

Having Seen:

1. The Judgment on Reparations and Costs (hereinafter “the Judgment on Reparations” or “the Judgment”) delivered by the Inter-American Court of Human Rights (hereinafter “the Court”) on November 19, 2004.
2. The Order of the Court on Monitoring of Compliance with Judgment of November 28, 2007, whereby, *inter alia*, the Court declared the following:
 1. That in conformity with Considering clauses 9 to 12 of the [...] Order, the State has fully complied with the requirement to hold a public act to acknowledge its responsibility internationally, redress the victims, and publicly honor the memory of those executed in the Plan de Sánchez Massacre (*operative paragraphs two and three of the Judgment*).
 2. That in accordance with the [...] Order, the State has complied with the following operative paragraphs of the Judgment on Reparations and Costs:
 - a) to translate the text of the American Convention on Human Rights and the Judgments on Merits, Reparations, and Costs into the Maya-Achí language, in conformity with the stipulations of Considering clauses 13 to 17 of the [...] Order (*operative paragraph four of the Judgment*);
 - b) to publish in the Official Gazette, in Spanish, the Proven Facts section of Chapter V, as well as operative paragraphs one through four of the Judgment on Merits and Chapter VII regarding the Proven Facts of the Judgment on Reparations and Costs, in conformity with Considering clauses 18 to 22 of the [...] Order (*operative paragraph five of the Judgment*);
 - c) to establish a health-care center in the village of Plan de Sánchez, provided with staff, and train the staff of the Rabinal health-care center so that they may provide psychological care, in conformity with Considering clauses 28 to 32 and 38 to 42 of the [...] Order (*operative paragraphs seven and nine of the Judgment*);
 - d) to settle 66.66% of the compensation awarded for pecuniary and non-pecuniary damage corresponding to the first and second installments payable to the majority of the victims in the instant case, in conformity with Considering clauses 38 to 51 and 53 to 54 of the [...] Order (*operative paragraphs ten, eleven, thirteen and fourteen of the Judgment*), and
 - e) to settle 66.66% of the sum awarded in the Judgment corresponding to the first and second installments of costs and expenses payable to the representatives, in conformity with Considering clauses 43, 44, 45, 46 and 52 of the [...] Order (*operative paragraph twelve of the Judgment*).
3. The Order of the Court on Monitoring Compliance with Judgment of August 5, 2008, whereby, *inter alia*, the Court declared the following:

1. That, as indicated in the [...] Order, the State has fully complied with its obligation to make full payment of the amount awarded in the Judgment on Reparations for costs and expenses to the representatives, in accordance with Considering clause 37 [...] thereof (*operative paragraph twelve of the Judgment*).

2. That, as stated in the [...] Order, the State has partially complied, to the relevant extent, with the following operative paragraphs of the Judgment on Reparations:

a) to provide the Maya-Achí texts of the Judgment on Merits and the Judgment on Reparations and Costs to the victims and disseminate them in the Municipality of Rabinal, in conformity with the stipulations of Considering clauses 9 to 12 of the [...] Order (*operative paragraph four of the Judgment on Reparations*); and

b) to make payment of the full amount of compensation for pecuniary and non-pecuniary damage awarded by the Court in its Judgment on Reparations to the victims, pursuant to Considering clause 41 of the [...] Order (*operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment*).

3. That, in monitoring overall compliance with the Judgment issued in the instant case and having analyzed the information provided by the State, the Commission, and the representatives, the Court will keep open the procedure for monitoring compliance with those aspects still pending compliance in the instant case, namely:

a) investigation, identification and possible punishment of the perpetrators and masterminds of the Plan de Sánchez Massacre (*operative paragraph one of the Judgment*);

b) to publish, in Spanish, in a daily newspaper with national circulation, the Proven Facts section of Chapter V, and operative paragraphs one to four of the Judgment on Merits, and Chapter VII regarding the Proven Facts of the Judgment on Reparations and Costs. Also, publish a translation of such paragraphs into the Maya-Achí language in the Official Gazette and in another newspaper of national circulation (*operative paragraph five of the Judgment*);

c) to publicize the text of the American Convention in the Municipality of Rabinal, in Maya-Achí [...] (*operative paragraph four of the Judgment on Reparations*);

d) to pay the amount awarded in the Judgment for infrastructure maintenance and improvements at the memorial chapel (*operative paragraph six of the Judgment on Reparations*);

e) provide free medical and psychological treatment and medications to those victims who may so require (*operative paragraph seven*);

f) to provide adequate housing to the survivors of the Village of Plan de Sánchez who may so require (*operative paragraph eight of the Judgment on Reparations*);

g) to create programs in the affected communities regarding the following issues: a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road systems between the aforementioned communities and the municipal capital of Rabinal; c) provide a sewage system and potable water; d) provide teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling in the affected communities (*operative paragraph nine of the Judgment on Reparations*); and

h) to pay the compensation amount awarded in the Judgment for pecuniary and non-pecuniary damage to those individuals who were declared victims and have yet to receive full payment thereof, in conformity with Considering Clauses 37 and 42 of this Order (*operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment on Reparations*).

And Decide[d]:

1. To call upon the State to adopt all measures required to promptly and effectively comply with all pending aspects, in accordance with the provisions of 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, on November 24, 2008, a report stating all measures taken to comply with the reparations ordered by the Court but still pending compliance and, specifically, providing the information requested by the Court, as stated in Considering Clauses 8, 12, 16, 20, 27, 33, 37 to 39 and 42 of the [...] Order.

3. To request the representatives of the victims and the Inter-American Commission on Human Rights to submit their comments on the State report mentioned in the preceding operative paragraph, within four and six weeks, respectively, of receipt of the aforementioned report. Moreover, the representatives' comments must include the information requested by this Court, pursuant to Considering Clauses 8, 12, 16, 20, 27, 37 to 39 and 42 of the [...] Order.

4. To continue monitoring compliance with the paragraphs pending compliance of the Judgment on Reparations and Costs of November 19, 2004.

4. The reports of the Republic of Guatemala (hereinafter "the State" or "Guatemala") presented on August 28, 2008 and November 25, 2008 regarding the status of compliance with the Judgment.

5. The briefs of the victims' representatives (hereinafter "the representatives") received on October 24, 2008 and February 24, 2009, whereby they presented their observations on the State's reports.

6. The briefs of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") submitted on November 19, 2008 and June 2, 2009, whereby it presented its observations on the State's reports.

7. The notes of the Secretariat of the Court of March 20 and April 20, 2009, whereby it was reiterated to the Inter-American Commission to submit its observations on the State report of November 25, 2008.

Considering:

1. That it is an inherent power of the judicial functions of the Court to monitor compliance with its decisions.

2. That Guatemala has been a State Party to the American Convention on Human Rights (hereinafter, the "Convention" or the "American Convention") since May 25, 1978, and that it recognized the compulsory jurisdiction of the Court on March 9, 1987.

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." Therefore, the States must ensure that the rulings set out in the decisions of the Court are implemented at the domestic level.¹

¹ Cf. *Case of Baena Ricardo et al v. Panama*. Competence. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring Compliance with Judgment. Order of the Court of April 28, 2009, Considering clause three; and *Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Monitoring Compliance with Judgment. Order of the Court of April 29, 2009, Considering clause three.

4. That, considering Article 67 of the American Convention, which stipulates that the judgment of the Court shall be final and shall not be subject to appeal, such judgment shall be fully and promptly complied with by the State.

5. That the obligation to comply with the rulings of the Court corresponds to a basic principle of law on the international responsibility of the State, supported by international jurisprudence, according to which the States must comply with their international conventional obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and pursuant to Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for domestic order reasons, avoid the international responsibility which has already been established.² The conventional obligations of the States Parties bind all powers and organs of the State.

6. That 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 applies not only in connection with the substantive provisions of human rights treaties (*i.e.* those dealing with provisions on protected rights) but also in connection with procedural rules, such as the ones concerning compliance with the decisions of the Court. Such obligations are intended to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, taking into account the special nature of human rights treaties.³

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7. That with regards to operative paragraph one of the Judgment (*supra* Having Seen 1) on the investigation of the facts, identification, prosecution, and possible punishment of those responsible for the "Plan de Sánchez" Massacre (hereinafter "the Massacre"), the State expressed in its report of August 28, 2008 that it had a rapprochement with the representative of the Center for Legal Action in Human Rights (hereinafter "CALDH") in order to establish a mechanism that will allow for prompt execution of this paragraph of the Judgment. In the report of November 25, 2008 the State manifested, in sum, that: a) the District Attorney's Office of Salamá, Baja Verapaz, has obtained the birth and death certificates of 20 individuals whose remains were exhumed in the Plan de Sánchez community, and on January 26, 2006 the same District Attorney's office took statements from the witnesses; b) the Special Human Rights Violations Cases Unit of the Attorney General's Office requested information from the First Instance Criminal, Drug Trafficking and Environmental Crimes Court and from the District Attorney's Office, both from Baja Verapaz, Salamá, with regards to locating the report of the exhumations performed in 1994 in the Plan de Sánchez village by the team of Forensic Anthropologists of Guatemala, which appears to be missing. The State indicated that the aforementioned report was delivered by the Anthropology Team to the Attorney General's Office on April 6, 1995; c) the Special Human Rights Violations Cases Unit requested the Office of Criminal Investigation to name the patrol members and military offices who allegedly participated in the massacre so as to

² 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; *Case of Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause five; and *Case of Chaparro Álvarez and Lapo Íñiguez Vs. Ecuador*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause five.

³ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring Compliance with Judgment, *supra* note 1, considering clause six; and *Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Monitoring Compliance with Judgment, *supra* note 1, considering clause six.

determine the corresponding criminal responsibilities, and that said police unit informed on July 23, 2008 that "several individuals had been located and identified"; and d) on June 25, 2008 it requested the Ministry of Defense to "elaborate on the information related to the Case of the Plan de Sánchez Massacre" but no response has been obtained yet. Additionally, it stated that it will continue reporting to the Court on the progress of the investigations.

8. That the representatives observed, with regards the State's reports on operative paragraph one of the Judgment (*supra* Having Seen 1), that "there is serious inactivity in the investigation of this massacre. [T]he report only refers to steps aimed at identifying the victims and determining their existence, [...] as well as locating the original anthropological forensic report which should be held by the Government Attorney's office." They added that the aforementioned report indicated that "in their records there are no [...] steps performed to identify the patrol members and military officers who participated in the massacre [, and] the information of the location of the two individuals identified thus far is not included." Taking into account this "unjustified delay" by the State, the representatives affirmed that "the inexistent advance with regards to the individualization of those responsible and their inclusion into the corresponding proceedings cannot be justified in any manner."

9. That with regards to the obligation to investigate the facts, in its observations the Commission expressed its "concern regarding [...] the lack of efficient acts of compliance with the obligation to investigate" and pointed out that "more than four years later [...], there have been no changes in the situation verified by the Court in the procedure on the merits of the case." It reiterated that "the information presented by the State shows that there are no efficient acts of compliance with the obligation to investigate. In this regard, more than five years after the judgment was delivered, the Commission observes that there have been no changes to the situation that the Court verified in the merits proceeding [...and that] obtaining justice is essential to mitigate the damage; hence, it is fundamental for the State to adopt measures to obtain it as soon as possible." Finally, it requested for the State to be required to report specifically on "the current status of the investigations, the competent authorities who are working on those investigations, the individuals who are currently being investigated for alleged perpetration and/or masterminding of the events, and the sanctions that have been imposed."

10. That although the State has manifested that the Attorney General's Office has performed several investigations, the representatives and the Commission have expressed the contrary. In view of the foregoing, the Court observes that the investigation of the facts does not yet comply with what was ordered in the Judgment (*operative paragraph one of the Judgment on Reparations, and paragraphs 94 to 99 of that Judgment*) with regards to achieving an effective investigation, identification, and possible punishment of the perpetrators of the Massacre. Consequently, the Court deems necessary for the State to submit clear, detailed, and updated information regarding the progress of the investigation, particularly with regards to: a) the authority in charge of the investigation and its identification number; b) the current status of the proceeding on those individuals "located and identified" as allegedly responsible for participating in the Plan de Sánchez Massacre; and c) a list of the next steps to be taken to prosecute, and if applicable, to punish those responsible. Additionally, the representatives and the Commission must present their observations accordingly. Once this information is received, the Court will assess the status of compliance with operative paragraph one of that Judgment.

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11. That with regards to the pending compliance with operative paragraph four of the Judgment (*supra* Having Seen 1) regarding delivery of the American Convention in Maya Achí language to the victims and its publication in the Municipality of Rabinal, in the brief of November 25, 2008 the State reported that through the Academy of Mayan Languages 51 Articles of that Convention had been translated into Maya Achí (*supra* Having Seen 4). Additionally, in that same brief the State informed that: “[...] it is looking for the appropriate mechanisms to perform a public ceremony in the community of Rabinal, department of Baja Verapaz, to publish and deliver the judgment in its ‘popular version’, the [A]merican [C]onvention [...]”.

12. That the representatives of the victims observed that “the process for publication of the text of the American Convention to the victims is still pending[, and that] the ‘popular version’ [delivered] only includes the contents of both judgments, and does not include the American Convention yet[,] therefore they are waiting for the process of delivery [of the American Convention] to the surviving victims and families to take place [...] and the establishment of an agreement with the beneficiaries and their representatives, on the best way to comply with the publication of those texts.”

13. That the Commission manifested in its observations that it takes cognizance of “the information presented by the State with regards to holding a public ceremony to publish and deliver the texts.” Additionally, it reiterated the need for coordination with the injured party.

14. That the Court takes cognizance of that reported by the State. However, it observes that it did not submit information on the actions performed to deliver the text of the American Convention to the victims nor for its publication in the Maya Achí language in the Municipality of Rabinal, in conformity with operative paragraph four of the Judgment. Therefore, in view of the foregoing and taking into consideration that indicated by the representatives and the Commission, the State must report specifically on the steps implemented to comply with the aforementioned measures still pending compliance.

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15. That in relation to operative paragraph five of the Judgment (*supra* Having Seen 1), with regards to the publication of certain parts of the Judgment on Reparations in Spanish and Maya Achí in the Official Gazette and another newspaper of national circulation, in the brief of November 25, 2008 the State manifested that it has complied with this paragraph, since it published the Judgment in both Spanish and Maya Achí languages in the newspaper “El Periódico” and also in Maya Achí in the “Diario de Centroamérica,” official newspaper of Guatemala (*supra* Having Seen 4). It added that it reported on compliance with this operative paragraph to the representatives of the victims. The State submitted a copy of these publications.

16. That the representatives informed that the State had fully complied with operative paragraph five of the Judgment, and that they were waiting for a ceremony to be performed by the State to deliver the newspaper publications to the surviving victims and families.

17. That the Commission assessed the publication performed by the State with regards to operative paragraph five of the Judgment.

18. That based on the information submitted by the State and the representatives, as well as the analysis of the evidence presented, this Court has verified compliance with operative paragraph five of the Judgment.

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19. That in relation to operative paragraph six, regarding the payment of the amount awarded in the Judgment on Reparations (*supra* Having Seen 1) for infrastructure maintenance and improvements to the memorial chapel, the State informed that it made that payment at the headquarters of the "Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de derechos humanos" or Presidential Commission for Coordination of the Executive Branch's Policy on Human Rights Issues (hereinafter "COPREDEH") through the delivery of a check for the amount indicated in the Judgment and granted to the president of the "Asociación Comunitaria de Vecinos Sobrevivientes dieciocho de julio del ochenta y dos" (Community Association of the Survivors of July 18, 1982). This act was performed in the presence of the President of COPREDEH, a representative of CALDH, and two representatives of the Plan de Sánchez Community. The State submitted the corresponding payment release document.

20. That the representatives informed that, as indicated by the State, the amount awarded for infrastructure maintenance and improvements of the chapel was delivered.

21. That the Commission, in its observations, valued the payment performed by the State for maintenance and improvements to the chapel, in compliance with this operative paragraph.

22. That based on the information submitted by the parties and the analysis of the evidence provided, this Court has verified that the State has complied with operative paragraph six of the Judgment.

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23. That with regards to operative paragraph seven, related to the rendering of medical and psychological services and supply of medications, on August 28, 2008, the State informed that it has provided psychological attention through the Center for Permanent Attention of Rabinal, Baja Verapaz, of the Ministry of Health and Social Assistance. It also indicated that it has appointed medical personnel and psychologists, and performed a series of activities in seven communities. It added that although the Judgment ordered for mental health services to be provided in thirteen communities, the State performed a "diagnosis" whereby it was determined that "there are beneficiaries of the Judgment only in seven communities."

24. That in relation to the psychological attention the representatives expressed, in the report submitted on October 24, 2008, that the attention provided was not ideal, given that the designated personnel did not have the necessary knowledge of "the [c]ontext prior to violence in that region (Rabinal), general aspects of the culture[,] the facts of the massacre [and] the necessary knowledge with regards to attention to the victims of political violence," which has generated mistrust and lack of "empathy" by the victims. That with regards to medical attention, they expressed the need for diagnosis of each of the beneficiaries "as a starting point for any treatment that may be provided", and also

mentioned several difficulties such as lack of sufficient information to the beneficiaries and medications for their illnesses. The representatives concluded that although the acts of the State previously described are considered positive, these are not identified by the beneficiaries of the Judgment as a reparation, given that the medical and psychological attention were within the framework of general health services provided by the State, and did not constitute specific attention for the victims of the Plan de Sánchez Massacre as ordered in the Judgment on Reparations, therefore such State actions did not have redressing effects. In the brief of February 24, 2009, they added that they had knowledge that the State had not “renewed the contract” of the personnel who was providing the medical and psychological attention, “a fact which is generating fear that the little progress that has been achieved thus far will be lost,” additionally, that the beneficiaries have not been informed of the mechanisms to provide continuity to this paragraph, hence it requested for the State to be required to provide information on this (*supra* Having Seen 5).

25. That in its observations the Commission valued the attention provided by the State to the victims in the instant case. However, it observed that the State omitted reference to the free supply of the medications required by the victims, therefore it considered pertinent for the State to inform on the manner in which it would comply with that point, as well as on the criticisms presented by the representatives. Additionally, the Commission deemed pertinent to review “the analysis performed by the State, whereby it was determined that there are beneficiaries to the Judgment only in seven and not thirteen communities,” as well as for the names of the individuals who are receiving medical and psychological attention to be reported, and stressed the importance of knowing the measures being implemented or to be implemented by the State to ensure that the treatment provided is comprehensive.

26. That the Court appreciates the measures adopted by the State to comply with the obligation to provide medical and psychological treatment to the beneficiaries of the Judgment. However, the representatives observed that although the State has been complying, it has done so inadequately and, apparently, it no longer has personnel to provide that care. Considering the foregoing, the Court deems necessary that, when reporting on compliance with this reparation, the State must refer to the aforementioned observations of the representatives and the Commission, and, specifically: a) whether medical and psychological attention is being provided and if there is personnel, b) the names of the beneficiaries of the medical and/or psychological attention; c) whether the medications are being provided for free to the beneficiaries who have required them; d) the advances in the creation of a specialized program for psychological and psychiatric treatment, under the terms of paragraph 107 of the Judgment on Reparations; and e) the advances in the functioning of the committee who will assess the psychical and mental condition of the victims, according to paragraph 108 of that Judgment and Considering paragraphs 29 to 32 of the Order of November 28, 2007 (*supra* Having Seen 2). Additionally, the Court considers it necessary for the representatives and the Commission to provide their observations, and once this information is received, it will assess compliance with this reparation.

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27. That with regards to the need to provide housing included in operative paragraph eight of the Judgment (*supra* Having Seen 1), on November 25, 2008 the State reported that “it has planned [...] the signing of an Agreement [...] between the Guatemalan Housing Fund and COPREDEH, to begin the paperwork for construction of the houses [...]”

28. That the representatives informed in their brief of February 24, 2009 that “on December 15, 2008 agreements were signed for cooperation between COPREDEH and the Guatemalan Housing Fund FOGUAVI, for construction of the houses for the victims in the instant case, in which the commitment to grant 317 subsidies to the families assigned was established, for compliance with this operative paragraph.”

29. That in its observations, the Commission took cognizance “[...]satisfactorily that agreements have been implemented which allow for the construction of the houses to begin.” However, it stressed the importance of complying with this obligation.” Additionally, the Commission requested for the State to refer specifically to the “progress in providing adequate housing to the victims [...] in Plan de Sánchez.”

30. That the Court appreciates what has been reported by the State and the representatives with regards to advances to comply satisfactorily with this measure (*supra* Having Seen 4). However, it observes that there is no information yet to support whether housing has been provided to the victims who have requested it. Therefore, the Court considers it necessary for the State to provide timely information on effective implementation of operative paragraph eight. Additionally, the Court deems necessary for the representatives and the Commission to provide their comments on this matter.

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31. That with regards to operative paragraph nine of the Judgment (*supra* Having Seen 1), on the creation of several programs for the communities beneficiaries to the Judgment on Reparations, in the report submitted on November 25, 2008 the State indicated that in relation to the study and dissemination of the Maya Achí culture (*sub-paragraph a) of operative paragraph nine*), it had coordinated with the National Fund for Peace and the Academy of Mayan Languages the signing of an agreement for compliance with this measure, but this was not been possible due to “lack of support” by the latter institution. Additionally, it reported that it was negotiating with the same Fund for the construction of the Health Center in Plan de Sánchez (*sub-paragraph e) of operative paragraph nine*), as well as the creation of several cultural initiatives in different communities, including the Achí community of the Baja Verapaz Department. Finally, it added that “[...] it will continue looking for the mechanisms necessary to comply with each of the sub-paragraphs of this commitment.” The State did not refer to sub-paragraphs b), c) or d) of this operative paragraph.

32. That in the brief of February 24, 2009, the representatives indicated that they regarded as important what the State reported on the creation of several initiatives by means of “Ministerial Agreements”, but they observed that it was not established “precisely how these Agreements and their implementation (if they are already being implemented) were directly related to the compliance” of this operative paragraph, thus they required from the State “a more detailed report in terms of the progress” of each of the measures ordained in operative paragraph nine. They added that they considered important for the State, through COPREDEH “as a coordinating entity, to create an inter-institutional table to serve as a space for direct discussion with the institutions that could contribute to compliance with these aspects.” They also provided their opinion on what was reported by the State on the Academy of Mayan Languages’ negative “on the encouragement of the compliance with sub-paragraph [a)] that it is necessary to carry out actions with other institutions that could contribute [with] the participation by the victims and their representatives” (*sub-paragraph a) of operative paragraph 9*). Regarding the improvement

of the road systems, they reported that the benefitting communities submitted to the "Presidential Cabinet" during a visit to Rabinal, Baja Verapaz, a petition to conduct urgent actions to comply with this paragraph, prior to the beginning of winter "which complicates this type of improvements that could be conducted at this time, further affecting the roads between these two communities," but that they have not obtained any results (*sub-paragraph b) of operative paragraph 9.*) They also requested that the State report on the progress made on the construction of the Health Center at Plan de Sanchez (*sub-paragraph e) of operative paragraph 9.*)

33. That on this issue the Commission observed that regarding the obligations contained in this reparation, the State has not contributed sufficient information on its compliance. It added that it considered essential for the State to be asked to provide specific information on "the plans, programs and projects that it has designed or is designing in order to present and diffuse the Maya Achí culture, as well as substantial advances on this obligation (*sub-paragraph a) of operative paragraph 9.*), to provide maintenance and improve the roadways between the communities [indicated] in the Judgment (*sub-paragraph b) of operative paragraph 9.*), to develop the water sewage system and the supply of potable water (*sub-paragraph c) of operative paragraph 9.*) and to provide skilled teaching personnel for elementary and secondary education in these communities (*sub-paragraph d) of operative paragraph 9.*)" (*supra* Having Seen 6). The Commission took cognizance of "the non-compliance on these aspects of the reparation [...] and requested the Court to urge the State to comply with the mentioned obligations and report on these as soon as possible."

34. That the Court regards as positive what was reported by the State in terms of the performance of actions to comply with subparagraphs a) and e) of operative paragraph 9, regarding the study and dissemination of the Maya-Achí culture, and the construction of a health center in Plan de Sanchez. However, it verified that none of the state reports make reference to any specific measure adopted to comply with sub-paragraphs b), c) and d) of that operative paragraph, which relate to the maintenance and improvement of the roadways, sewage system and potable water supply, and the provision of skilled teaching personnel in the benefitting communities. Consequently, in consideration of what is established in the Judgment (*supra* Having Seen 1), this Court believes that the State must perform all necessary actions to give full compliance to these reparation measures and report on the progress of the implementation, taking into account that, according to paragraph 117 of the Judgment, the measures ordained therein must be implemented in a term that must not exceed five years beginning on December 7, 2004, date on which the Judgment was served to the parties.

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35. That in relation to operative paragraphs 10, 11, 13, 14 and 15 of the Judgment (*supra* Having Seen 1), and Considering Paragraphs 21 to 42 of the Order from August 5, 2008 (*supra* Having Seen 3), relating to the payment for pecuniary and non-pecuniary damages, this Court considers appropriate to refer again to the situation of certain victims or their families in relation to the execution of the compensation payment established in the Judgment.

36. That in its report of November 25, 2008, the State expressed that on August 15, 2008 it paid the full amount and interest corresponding to Ms. Salome Ic Rojas, through her legal representative Mr. Fernando Suc Ic, and submitted the respective payment

release document. It is worth noting that according to the information provided by the representatives, described in Considering Paragraph 35 of the Order from August 5, 2008 (*supra* Having Seen 3), Ms. Salome Ic Rojas was part of the list of 20 individuals with similar names that appear in the Judgment on Reparations that had not received any payment.

37. That neither the representatives nor the Commission have referred to what was expressed by the State in relation to the payment in favor of Ms. Salome Ic Rojas.

38. That considering the information provided by the State, the Court observes that the payment in favor of Ms. Salome Ic Rojas has been fulfilled.

39. That following, this Court will refer to the cases of Lucia Raxcacó Sesám and Natividad Morales, described in Considering Paragraphs 25 and 33 of the Order of August 5, 2008, respectively (*supra* Having Seen 3), in view of the fact that the State provided specific information on their situation.

40. That regarding the compensation in favor of Lucia Raxcacó Sesam, deceased, the State reported on November 25, 2008, that the second and third payments are still pending to be made to her sons Hugo Leonel and Irma Johann, last names Galeano Raxcacó, since the children's legal representative has not presented the "full documentation" for this purpose. Regarding Ms. Natividad Morales, in the report of August 28, 2008, the State expressed that she died after receiving the first two payments. Upon becoming aware of this situation, her relatives were informed that they had to carry out a probate proceeding to be able to make the pending compensation to the heirs (*supra* Having Seen 4).

41. That the representatives have not provided any information on what was expressed by the State in relation to Ms. Lucia Raxcacó Sesám and the lack of a second and third payment in her favor, nor regarding the third payment in favor of Ms. Natividad Morales or her heirs.

42. That in its observations, the Commission expressed that it valued the State's initiative to perform the corresponding payment, and it deemed it "useful and necessary to become aware of the enforcement relating to the payments pending to the children of Ms. Lucia Raxcacó and to the persons who have not come forward to make a claim."

43. That of the information submitted by the State, this Court considers necessary for the representatives to report precisely on the current status of the probate proceeding of Lucia Raxcacó Sesám and Natividad Morales, and the corresponding payment to their heirs.

44. That notwithstanding the above, the Court has verified that the state reports (*supra* Having Seen 4) make no reference to any specific measure adopted to comply with what is indicated in Considering clauses 22, 37, 38, 39 and 42 of the Order of August 5, 2008 (*supra* Having Seen 3), in relation to the payments pending for compensation in favor of some of the victims. Therefore, this Court considers it necessary to require that both the State and the representatives report precisely on the situation of each of the individuals found in the following assumptions: a) those who have not received any of the payments (see table attached to Order from August 5, 2008); and b) those who have names that are identical or similar who have not received payment of the corresponding compensations (see table attached to Order from August 5, 2008). Likewise, the Court considers that it is essential for the Commission to provide its observations on this matter.

45. That in the brief of February 24, 2009, the representatives referred to the importance of the State to report on the processes conducted to comply with paragraph 121 of the Judgment, relating to those beneficiaries who were not able to receive compensation within the terms established therein, who had to appear before competent authorities within the terms indicated in paragraphs 67 and 117 of the Judgment (*supra* Having Seen 1). Regarding this matter, this Court considers necessary to reiterate to the State and also to the representatives to submit updated information on the persons found in this assumption, and in particular that the State indicate whether it has constituted an account or certificate of deposit at a banking institution in favor of the persons in the indicated circumstances, to ensure payment of the corresponding compensations.

46. Consequently, considering what is established in the Judgment and in the Orders of November 28, 2007 (*supra* Having Seen 2) and August 5, 2008 (*supra* Having Seen 3), the State must perform all necessary actions to ensure full compliance with operative paragraphs 10, 11, 13, 14 and 15 of the Judgment and report on the progress of the implementation of the measures ordained in the operative paragraphs cited still pending compliance.

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47. That the Court assessed the State's full compliance with operative paragraphs 5 and 6 of the Judgment as positive, as well as the partial compliance of operating paragraphs: 10, 11, 13, 14, and 15 of the same Judgment, and the actions performed in relation to operative paragraphs 7, 8 and 9, which constitute relevant progress by the State in the execution and implementation of the Court's judgments.

48. That the Court will consider the general status of the compliance with the Judgment on Reparations and Costs of November 19, 2004, once it receives all pertinent information on the paragraphs of the reparations that are pending compliance. Additionally, the Court considers it pertinent to hold a hearing on monitoring of compliance with the Judgment.

Therefore:

The Inter-American Court of Human Rights,

by virtue of its authority to monitor compliance with its own decisions pursuant to Articles 33, 62(1), 62(3), 65, 67, and 68(1) of the American Convention on Human Rights, and Articles 25(1) and 30 of its Statute and 30(2) of its Rules of Procedure,⁴

Declares:

1. That, in conformity with what has been indicated in this Order, the State has fully complied with the following operative paragraphs of the Judgment on Reparations:

a) publication of the Judgment, in the Official Gazette and in another newspaper of national circulation, in Spanish and in Maya Achí, (*operative paragraph five*); and

⁴ Approved by the Court in its XLIX Period of Regular Sessions held from November 16 to 25, 2000 and partially reformed by the Court in its LXXXII Period of Regular Sessions held from January 19 to 31, 2009; the same which will be applied in this case.

b) payment of the amount established for maintenance and improvements to the infrastructure of the chapel in which the victims pay homage to those executed in the Plan de Sánchez massacre (*operative paragraph six*).

2. That as stated in this Order, the State has partially complied, to the relevant extent, with the following operative paragraph of the Judgment on Reparations:

a) payment to Salomé Ic Rojas of the full compensation amount awarded to her by this Court for pecuniary and non-pecuniary damage in the Judgment on Reparations, in conformity with Considering clause 36 of this Order (*operative paragraphs ten, eleven, thirteen, fourteen, and fifteen of the Judgment on Reparations*).

3. That in monitoring overall compliance with the Judgment issued in the instant case, and having analyzed the information provided by the State, the Commission, and the representatives, the Court will maintain open the procedure for monitoring of compliance with those aspects still pending compliance in the instant case, namely:

a) investigation, identification and possible punishment of the perpetrators and masterminds of the Plan de Sánchez Massacre (*operative paragraph one of the Judgment on Reparations*);

b) to deliver to the victims and publicize the text of the American Convention in the Municipality of Rabinal, in Maya-Achí [...] (*operative paragraph four of the Judgment on Reparations*);

c) to provide free medical and psychological treatment and medications to those victims who may so require (*operative paragraph seven of the Judgment on Reparations*);

d) to provide adequate housing to the survivors of the Village of Plan de Sánchez who may so require (*operative paragraph eight of the Judgment on Reparations*);

e) to create programs in the affected communities regarding the following issues: a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road systems between the aforementioned communities and the municipal capital of Rabinal; c) provide a sewage system and potable water; d) provide teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling in the affected communities (*operative paragraph nine of the Judgment on Reparations*); and

f) to pay the compensation amount awarded in the Judgment for pecuniary and non-pecuniary damage to those individuals who were declared victims and have yet to receive full payment thereof, in conformity with Considering clause 44 of this Order (*operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment on Reparations*).

And Decides:

1. To call upon the State to adopt all measures required to promptly and effectively comply with all pending aspects, in accordance with the provisions of 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, on September 7, 2009 a full and detailed report indicating all measures adopted to comply with the reparations ordered by the Court that are still pending compliance and, particularly, to refer to the information required by this Court, as established in Considering clauses 10, 14, 26, 30, 31, 34, 44, 45 and 46 of this Order.
3. To request the representatives of the victims and the Inter-American Commission on Human Rights to submit their comments on the report of the State referred to in the preceding operative paragraph, within four and six weeks, respectively, of receipt of the aforementioned report. Moreover, the representatives' comments must include the information requested by this Court, as provided for in Considering clauses 10, 26, 30, 34, 43 and 44 of this Order.
4. To continue monitoring compliance with the pending paragraphs of the Judgment on Reparations and Costs of November 19, 2004.
5. To timely request a hearing on monitoring of compliance with the Judgment, in conformity with Considering clause 48 of this Order.
6. To request the Secretariat of the Court to serve notice of this Order upon the State, the Inter-American Commission on Human Rights and the victims or their representatives.

Cecilia Medina Quiroga
President

Diego García-Sayán

Sergio García Ramírez

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary