

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 21, 2011
CASE OF THE PLAN DE SÁNCHEZ MASSACRE V. GUATEMALA
MONITORING COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The Judgment on merits passed by the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal") on April 29, 2004.
2. The Judgment on reparations and costs (hereinafter "the Judgment") passed by the Inter-American Court of Human Rights on November 19, 2004.
3. The Orders on Monitoring Compliance with the Judgment of November 28, 2007, August 5, 2008 and July 1, 2009. In the latter, the Court declared, *inter alia*, that:

1. In conformity with what was stated in the [...] Order, the State has fully complied with the following operative paragraphs [...]:

a) To publish the Judgment in the Official Gazette and in another newspaper that is widely circulated nationally, in both Spanish and Maya Achí (*operative paragraph five*); and,

b) To pay the amount set for maintaining and improving the infrastructure of the chapel where victims pay tribute to those murdered in the Plan de Sánchez Massacre (*operative paragraph six*).

2. In accordance with the [...] Order, the State has partially complied with the following operative paragraph of the Judgment on Reparations:

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

3. When monitoring full compliance with the Judgment issued in the instant case, and after analyzing the information provided by the State, the Commission, and the representatives, the Court will keep the procedure open to monitor compliance with those aspects still pending compliance in the instant case, namely:

- a) To investigate, identify and, possibly, punish the perpetrators and masterminds of the Plan de Sánchez Massacre (*operative paragraph one of the Judgment on the Reparations*);
- b) To deliver the text to the victims and publicize the American Convention, in Maya-Achí, in the Municipality of Rabinal (*operative paragraph four of the Judgment on Reparations*);
- c) To provide free medical and psychological treatment, and medications, to any victims that need them (*operative paragraph seven of the Judgment on Reparations*);
- d) To provide adequate housing to any survivors from the village of Plan de Sánchez who need it (*operative paragraph eight of the Judgment on Reparations*);
- e) To create the following programs in the affected communities: a) the study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages, or a similar organization; b) the maintenance and improvement of the road network between the aforementioned communities and Rabinal, the municipal seat; c) provide a sewage system and drinkable water; d) provide teaching personnel for the affected communities who are trained in intercultural and bilingual teaching for primary, secondary and diversified education (*operative paragraph nine of the Judgment on Reparations*); and,
- f) To pay the compensation amount awarded in the Judgment, as pecuniary and non-pecuniary damages, to those individuals who were declared victims and are yet to receive full payment thereof, in conformity with Considering Clause 44 of the [...] Order (*operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment on Reparations*).

[...]

4. The reports of the Republic of Guatemala (hereinafter, the "State" or "Guatemala") presented on January 7, August 18 and December 1, 2010, whereby it informed on the progress made regarding the status of compliance with the Judgment.

5. The briefs of the victims' representatives (hereinafter, the "representatives") received on March 15 and October 25, 2010, whereby they presented their observations on the state reports.

6. The brief of May 12, 2010, whereby the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted its observations on the state report of January 7, 2010.

7. The notes of the Court's Secretariat (hereinafter, the "Secretariat") of September 22 and November 27, 2009, whereby it reiterated to the State the request to present updated information on the points pending compliance. The communications of the Secretariat of July 6 and August 17, 2010 reiterated and asked the State to present documentation showing the proof of payment of the financial reparation, as well as documentation proving delivery of the translation of the American Convention on Human Rights (hereinafter, the "American Convention" or the "Convention").

8. The communication of the Secretariat of February 25, 2010, whereby it was reiterated to the representatives that they had to present their observations on the State report of January 7, 2010. The communications of the Secretariat of March 17 and December 3, 2010, whereby it was reiterated to the Commission that it had to

submit its observations on the state reports of January 7 and August 18, 2010, respectively.

CONSIDERING:

1. Monitoring compliance with its decisions is an inherent power to the jurisdictional functions of the Court.

2. Guatemala has been a State Party to the American Convention since May 25, 1978, and it accepted the binding jurisdiction of the Court on March 9, 1987.

3. In accordance with the provisions of Article 67 of the American Convention, the State should fully comply with the Court's Judgments. Furthermore, Article 68(1) of the American Convention stipulates that "[t]he State Parties to the Convention undertake to comply with the decision of the Court in any case to which they are parties." To this end, States should ensure the domestic implementation of provisions set forth in the Court's rulings.¹

4. The obligation to comply with the Tribunal's rulings conforms to a basic principle of international law, supported by international jurisprudence, under which States must abide by their international treaty obligations in good faith (*pacta sunt servanda*); and, as set forth by this Court and in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for domestic reasons, ignore their pre-established international responsibility.² The treaty obligations of State Parties are binding on all branches and bodies of the State.³

5. The States Parties to the Convention must guarantee compliance with the provisions thereof and their effectiveness (*effet utile*) within their domestic legal systems. This principle applies not only to the substantive provisions of human rights treaties (i.e., those addressing protected rights), but also to procedural provisions, such as those concerning compliance with the Court's decisions. These obligations should be interpreted and enforced in such a manner that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁴

¹ Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60; *Case of Valle Jaramillo v. Colombia. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of December 21, 2010, Considering Clause three, and *Case of the Ituango Massacre v. Colombia. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of December 22, 2010, Considering Clause three and four.

² Cf. *International responsibility for the issuance and application of laws that violate the Convention* (Articles 1 and 2 of the American Convention on Human Rights). Advisory Opinion AO-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of Valle Jaramillo v. Colombia, supra note 1, Considering Clause four, and Case of Castro Castro Prison v. Peru. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of December 21, 2010, Considering Clause six.

³ 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, Considering Clause three; *Case of Valle Jaramillo v. Colombia, supra note 1, Considering Clause four, and Case of Castro Castro Prison v. Peru, supra note 2, Considering Clause six*.

⁴ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37; *Case of Valle Jaramillo v. Colombia, supra note 1, Considering Clause five, and Case of Castro Castro Prison v. Peru, supra note 2, Considering Clause seven*.

A) Investigation of the events of the Plan de Sánchez Massacre in order to identify, prosecute, and possibly punish those responsible (operative paragraph one of the Judgment)

6. In its report of January 7, 2010, the State expressed that the investigators assigned to the Human Rights Prosecutor's Office are conducting "the necessary proceedings to identify and locate the persons that, as civil patrol members and military officers [...], participated in the acts. Therefore, documents are being gathered to identify the victims of the massacre and the persons who allegedly took part in it". Moreover, the State informed on the actions taken by the Office of the Public Prosecutor during 2009. It mentioned that on December 10, 2009, it presented a proposal before the Judges of the Criminal Chamber to implement the judgments delivered by the Inter-American Court against the State of Guatemala and that, at a later date, a second meeting was held at the seat of the Criminal Chamber of the Court of Justice on December 11, as well as at the offices of the Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de derechos humanos [Presidential Commission for Coordination of the Executive Branch's Policy on Human Rights Issues] (hereinafter "COPREDEH") on December 23, 2009, in order to look for "the best means to make progress with the judgments."

7. The representatives referred to "the scant information that the State is forwarding regarding the steps conducted so far in the investigation of the case." They expressed that said steps "were conducted on March 3, 2009, yet when the [State] report was presented, the results of the aforementioned steps were unknown, and no new steps had been taken to progress with the investigation, apart from submitting the correspondence". Moreover, they mentioned that the victims consider that "the lack of willingness shown by the State to make progress with [this] investigation is evident." The representatives also expressed the need for COPREDEH "to participate in the twofold follow-up and information process with the Office of the Public Prosecutor, regarding the need to make progress in the investigation of the case, and also provide the victims and their representatives with information, opening the channel between [said actors] that can be used to inform about the progress in the investigation and, also, encourage new steps". Lastly, they suggested that a detailed report be requested from the State on the results of the steps taken to date.

8. Moreover, in its observations of May 12, 2010, the Commission affirmed that "the State fails to present updated information on the progress made in the investigations" and it reiterated that the information "does not evidence actual compliance with the obligation to investigate as part of the process of monitoring compliance with the judgment." The Commission indicated that "more than five years and eight months after the delivery of the Judgment, [...] it notes that the situation verified by the Court in the merits proceeding of the case has not changed." Therefore, it considered it was essential to reiterate that the State must comply with the reparation measure ordered in relation to the implementation of diligent investigations in order to punish those responsible.

9. Based on the foregoing, the Court notes that the State has only repeated information on the investigation that it had already presented in this monitoring compliance process, hence it has not presented updated information as requested in the Order of Court of July 1, 2009. This Tribunal notes that, following the delivery of the Judgment in the instant case, the State has not taken steps to conduct a prompt, thorough and effective investigation, in accordance with the standards set by

international laws and jurisprudence,⁵ to comply with operative paragraph one of the Judgment. The State has the duty to intensify its efforts and take all pertinent actions, as soon as possible, to make progress in the investigations, in an effective manner, in order to identify, prosecute and, if applicable, punish those responsible for the massacre.

10. Consequently, the Tribunal reiterates to the State that it must forward clear, detailed and updated information on the progress made in the investigation and, especially, regarding: a) the authority in charge of the investigation and its identification number; b) the current status of the proceeding conducted against the persons who "were identified" as allegedly being responsible for participating in the Plan de Sánchez Massacre; c) a list of the different action taken and its outcome; and, d) a schedule for the steps that will be taken to identify, prosecute, and possibly punish those responsible. Once this information is received, this Tribunal shall assess the status of compliance with operative paragraph one of the Judgment.

B) Delivery to the victims, and dissemination in the Municipality of Rabinal, of the American Convention on Human Rights and of the Judgments on merits, reparations and costs (operative paragraph four of the Judgment)

11. By means of the brief of January 7, 2010, the State informed that COPREDEH worked for the Academia de Lenguas Mayas [Guatemalan Academy of Mayan Languages] to translate the American Convention into Maya Achí and that, through COPREDEH, the translated document was delivered to the Achí language community on October 30, 2009 in the Municipality of Rabinal. Moreover, it reported on the submission of the translations of the judgments published in Spanish and Achi in the print media titled "El Periódico" on October 5 and 7, 2008. Therefore, the State requested that the Court consider that this commitment has been fulfilled.

12. The representatives, though they acknowledged the delivery of the translations of the American Convention, and the judgments published in Spanish and Maya Achí in the print media, to the victims of this case and other persons invited to the ceremony of October 30, 2009, they did not consider that this commitment had been fulfilled. They stated that the dissemination procedure, according to the terms of operative paragraph four, has not been carried out, given that the mere delivery of said documents to the victims cannot be construed as sufficient dissemination of its content. They further added that "the content should be communicated to those persons unaware of this proceeding, and the result thereof, brought before the Inter-American System, and not just to those persons who encouraged the proceeding." In addition, they reiterated that several proposals were presented to COPREDEH, on various occasions, regarding the appropriate manner to disseminate these documents, given that many of the people who received it, even though they are Maya Achi speakers, "cannot read and write." Lastly, they mentioned that said dissemination procedure should be more comprehensive "so that this measure is part of the guarantee of non-repetition and collective memory." In this respect, they suggested, as a first proposal, that the dissemination procedure should be carried out over the radio at pre-established hours or within the framework of the "seminars with teachers

⁵ Cf. Case of *Bámaca Velásquez v. Guatemala*. Monitoring Compliance with Judgment. Order of the Court of January 27, 2009, Considering Clause thirty; *Case of Ivcher Bronstein v. Peru*. Monitoring Compliance with Judgment. Order of the Court of August 27, 2010, Considering Clause eleven, and *Case of Bámaca Velásquez v. Guatemala*. Monitoring Compliance with Judgment. Order of the Court of November 18, 2010, Considering Clause twenty nine.

and other students from educational institutions in Rabinal in which the victims actively participate.”

13. The Commission took note of the delivery of the translation of the American Convention in Maya-Achí, as well as the information presented by the representatives. In addition, it reiterated that “the obligation to disseminate information [...] forms an important part of the reparation and, especially, regarding the prevention of violations and society's access to the truth” and that, therefore, it deemed it necessary to coordinate these obligations with the injured party, “so that they are fulfilled in accordance with the spirit of reparation that inspires them.”

14. The Court takes note of the measures taken by the State to comply with its obligation to translate the American Convention into Maya-Achí, its delivery to the victims and other persons present at the ceremony on October 30, 2009, as well as the delivery of the translations of the judgments in Spanish and Maya-Achí published on October 5 and 7, 2008, respectively, in a print media called “El Periódico”. In view of the information submitted by the State and the representatives, as well as the analysis of the documentation forwarded to that end, this Tribunal deems that the actions taken by the State in relation to operative paragraph in question comply with that set forth by the Court in its Judgment. In consequence, the Court considers that the State has complied with operative paragraph four of the Judgment.

C) To provide free medical and psychological treatment, and medications, to any victims that need them (operative paragraph seven of the Judgment)

15. In its report of January 7, 2010, the State pointed out that the Ministry of Public Health and Social Welfare (hereinafter, “MSPAS”), since 2005 to the present, has been providing collective, family and individual medical and psychological treatment to the residents of the Plan de Sanchez village, and neighboring communities, through two psychologists and one nursing assistant. In this respect, it presented a report of the visits made between the months of September 2005 and April 2009 to the health center of Plan de Sanchez village. It further added that “in order to provide better service to the residents, the premises of the Health Center of Plan de Sanchez village and Joya de Ramos community were improved,” where a water tank and a font were installed. In addition, it mentioned that “even though this judgment orders the provision of psychological and medical treatment to the residents of [said] village and the neighboring communities, the State is obliged to provide this service pursuant to the Constitution of the Republic of Guatemala”. Moreover, in a report of August 13, 2010, the State pointed out that on May 21, 2010, a meeting was conducted with officials from COPREDEH, where “[t]he attending officials proposed that the work of the Victims’ Physical and Mental Evaluation Committee be resumed so as [...] to provide them [...] with the free medical treatment [and] medicine they require [...]”. In that same meeting, the petitioners stated that MSPAS “did in fact [...] built a Health Center in the Plan de Sanchez village [...]”.

16. In its observations of March 15, 2010, the representatives pointed out that the information furnished by the State in relation to the treatment provided is general, and this forms part of its constitutional obligations. In this respect, they mentioned that it is appropriate to take into account the particular and specific nature of the measure to repair a damage caused by the State to the population; therefore, a greater effort is required from the authorities and, in consequence, the Court cannot consider compliance based on the general information furnished. They further alleged that, in this specific case, it is necessary to “reduce the physical and psychological suffering of

victims of grave human rights violations” and that, as a result, the State should take into account aspects such as the victim’s condition, their vulnerability and the effects of the political violence to which he or she was subjected. Moreover, they expressed that, so far, the State has not reported on the execution of individual evaluations, hence they considered that the treatment provided was not adequate, which “could [...] lead to continued, and constantly repeated suffering.” In this respect, they pointed out that the Evaluation Committee, set up in 2007, stopped operating, thus it is necessary to resume its work in order to conduct a physical and mental evaluation of the victims. They also argued that there is no specialized program to provide psychological and psychiatric treatment, or a plan that provides for a way to provide free medicines to the victims, which forces the victims to travel to Rabinal or Salama in search for medicines. Finally, the representatives referred to the report of the Equipo de Estudios Comunitarios y acción Psicosocial [Team of Community Studies and Psychological Action] (hereinafter, “ECAP”), which, among other things, contains the description of the psychosocial work carried out between the delivery of the judgment and the present day, a description of the health services provided, victims' proposals, as well as the recommendations put forward “to follow-up the implementation of the reparation measures from a psychosocial perspective”.

17. In its observations of May 12, 2010, the Commission mentioned that it agrees with the representatives on the fact that the information presented by the State “does not provide further details.” Moreover, it highlighted the lack of information in relation to the progress made with the implementation of a specialized program to provide psychological and psychiatric treatment, as well as regarding the functioning of the Psychosocial Evaluation Committee according to the terms of the Judgment. Lastly, it emphasized the importance of providing any free medicines that are necessary to treat the victims at their place of residence, “together with the actions necessary to ensure they receive comprehensive treatment.”

18. The Court takes note of the information provided by the State regarding the situation of the medical and mental treatment and the personnel available to provide it, as well as the fact that, in their observations, the representatives and the Inter-American Commission both pointed out that the State refers to the medical treatment in a general way and does not report on the implementation of the measure ordered by the Court, for the victims of the instant case, in view of their particular conditions.

19. In consequence, the Court repeats the need for the State to forward updated and detailed information regarding the progress made in implementing the medical and mental treatment it provides to the victims of this case and its results. In this respect, the Court repeats to the State that it must provide the necessary means to effectively reduce the physical and mental suffering of said victims. In the report so requested, the State must include information on: a) the names of the persons who are beneficiaries of the medical or psychological treatment; b) how medicines have been provided free of charge; c) the progress made in creating a specialized program to provide psychological and psychiatric treatment, in view of the particular circumstances and needs of each person; and d) the measures adopted to resume, if it is currently not operating, the work of the Victims’ Physical and Mental Evaluation Committee, all in accordance with paragraphs 106 to 108 and 117 of the Judgment on Reparations.

D) Provision of adequate housing to the surviving victims who reside in the village of Plan de Sánchez (operative paragraph eight)

20. In its report of January 5, 2010, the State reiterated that "work meetings were held with the representatives of the Fondo Guatemalteco para la Vivienda [Guatemalan Housing Fund] (hereinafter, "FOGUAVI") and the legal representatives of the beneficiaries [in order to] examine the adequate mechanisms to carry out the housing project" and, as a result of this, "in [the month of] December 2008, FOGUAVI and COPREDEH entered into an Inter-Institutional Agreement" for the term of one year, which was renewed for one additional year. It also informed that, within the framework of said Agreement, the representatives were requested to present "the case file of each one of the beneficiaries" in order to analyze said documentation and the socio-economic studies "to construct and/or improve each one of the beneficiaries' houses". It further argued that the representatives, who had presented 208 case files to the State with the requested documentation, sustained that several beneficiaries had moved to other areas of the country and that they did not know where they were located. Finally, the State pointed out that it is waiting for these cases to be forwarded.

21. In its report submitted on August 18, 2010, the State repeated that the Institutional Cooperation Agreement has been signed and it pointed out that in the case of Plan de Sánchez Massacre, the "Presidential Commission held an informative meeting on May 20, 2010 [...] so that the representatives of the institutions involved would inform the leaders of Plan de Sanchez village [...] of the procedure to be followed in order to carry out the housing project; as well as to seek their support to present the necessary information and documentation to comply with the requirements established by the institutions involved". The State sustained that, on said occasion, "the petitioners gave their approval to begin the housing project [...]." In the report presented on December 1, 2010, the State pointed out, in reference to the representatives' allegations related to the housing issue, that "from 2008 until the signing of the inter-institutional cooperation agreement [...] on July 28 [2010], the legal representatives of [Centro para la Accion Legal en Derechos Humanos {Center for Human Rights Legal Action} (hereinafter, "CALDH")] and the petitioners were fully aware of the housing project" and that, now, the leaders of the communities of Plan de Sanchez and Ixchel expressed their disagreement with the dimensions of the houses and that the leader of the small village of Joya Ramos stated that the community has a skeptical attitude towards compliance with this measure. The State considered "it was worrying that after the housing project procedure, the petitioners still expressed their disagreement." Lastly, it informed that "97 out of the 208 case files that were forwarded by the representatives [to FOGUAVI] were approved to start the construction of the houses in the following weeks." It further alleged that CALDH, as a representative and advisor for the petitioners, must complete the remaining 111 case files by 2011.

22. In its observations of March 15, 2010, the representatives informed that they are waiting to convene a meeting with FOGUAVI to determine the specific progress made so far to comply with this measure, after FOGUAVI made the first visit to the community. To this end, they emphasized the need "for those who are assigned with the task of constructing [the] housing [...] to learn about the acts that took place in the community and the Judgment that was delivered." Moreover, they highlighted that said measure, much like the others, "must be restorative and not re-victimizing, therefore compliance therewith cannot be just another housing construction project, but rather the actual reconstruction of a community, their inhabitants and the social fabric". Furthermore, in the observations of October 25, 2010, the representatives alleged that on September 22, 2010, a meeting was held with the representatives of governmental institutions (COPREDEH, FONAGUAVI, PNR and FONAPAZ) to deal with the issues related to the requirements needed to grant a housing subsidy. In this

meeting, it was indicated, "by the representative of the FOGUAVI, that of 208 case files that were analyzed, [...] a total of 203 case files were approved for the housing subsidy." The housing issue "was brought to the attention of the beneficiaries[,] who gave their opinions in this respect through the leaders of Plan de Sanchez." To this end, they indicated that the representative of Plan de Sanchez[,] Benjamin Manuel Jeronimo, state[d], on behalf of the community he represents, that the size of the houses set to be built does not suffice for the number of community members [...]. Families of 8 to 10 people are unlikely to be able to live in a house such as those the State intends to build." They pointed out, in addition, that "it is possible that the houses, once they are built, may not even be used by the beneficiaries due to their dimensions compared to the number of family members [...]".

23. In the brief of May 12, 2010, the Commission referred to the information presented by the parties and the progress made in gathering such information. It considered that the State has still not filed updated and detailed information as to the progress made regarding "the beneficiaries who requested housing and the measures taken" to comply with this reparation measure.

24. The Court notes that the State has informed on different actions taken to implement this measure, including those concerning: a) the signing of a cooperation agreement to carry out a housing project for the victims of the instant case, which includes the participation of different state entities; b) holding various meetings to carry out the housing project; c) the request made to the representatives for support and information for the case files for the housing project; d) the forwarding of 208 case files so as to be analyzed for the housing project; e) constructing houses in the following weeks as part of the Concul Village housing project. In this respect, the representatives and the Commission have acknowledged the progress made in implementing this measure and indicated the need for the State to present detailed information on the action taken. The Tribunal takes into account that, in the observations of October 25, 2010, the representatives indicated that the beneficiaries had observed that the dimensions of the houses set to be built were not adequate for the number of people (between 8 and 10 per family); therefore, they pointed out that it is possible that such houses, once built, may be unusable.

25. In view of the above, this Tribunal positively values the efforts and progress made by the State to comply with this measure. However, in order to assess compliance therewith, it deems it necessary for the State to present updated and detailed information on the actions recently taken and, if possible, on the implementation of the housing program. To do so, the State must include, among others, the following: a) a list with the names of the beneficiaries who were approved for housing construction; b) the characteristics of the houses set to be built; c) a list with the names of the beneficiaries whose case files are still pending approval and the reasons for this; and, d) a schedule for the implementation of the corresponding housing project.

E) Implementation of various programs in the beneficiary communities (operative paragraph nine of the Judgment)

26. Regarding the study and dissemination of the Maya-Achí culture in the affected communities, in subparagraph a) of operative paragraph nine, in its report of January 5, 2010, the State made reference to different activities the Academy of Mayan Languages, with the support of the Municipality of Rabinal, carried out to disseminate Achí culture, such as the publication of books prepared by the Academy and their

delivery to the leader of the community of Plan de Sanchez village. It indicated that even though no specific agreement has been entered into with said Academy, in accordance with the Judgment "it is looking for the mechanisms necessary to comply with the commitment made regarding the study and dissemination of Achi culture." As for the maintenance and improvement of the road systems, in subparagraph b) of operative paragraph nine, it stated that the Ministry of Infrastructure and Housing "continues with the renovation work on the road of the Plan de Sanchez village and the roads to other communities". Lastly, as to the supply of teaching personnel trained in intercultural and bilingual teaching for primary schooling, in subparagraph d) of operative paragraph nine, it mentioned that on October 30, 2009 it was decided, at the ceremony in which the translation of the American Convention was delivered, with the presence of the education representative for the Ministry of Education of the Rabinal municipality, "to give bilingual primary education in Maya-Achí in Plan de Sanchez village". Moreover, it indicated that on July 25, 2010, "[a] meeting was held with the inhabitants of Plan de Sanchez village so that specialist representatives of the governmental bodies (FONAPAZ, FOGUAVI, PNR and COPREDEH) [...] with the communities leaders [...] where "it was proposed to the leader of Plan de Sanchez village that four classrooms be constructed [...] and that the school be renovated."

27. Regarding subparagraph a) of operative paragraph nine, in its observations on the state report of March 15, 2010, the representatives stated that they acknowledge the important work of the Academy of Mayan Languages. They also repeated that the actions taken by different instances of the State "cannot be considered as compliance with the Judgment if the victims were not fully included in [the] process [initiated by said Academy]." In this respect, they mentioned that even though a copy of the books published by said Academy was delivered to the leader of the community, "this fact does not necessary form part of the compliance with the Judgment" and they pointed out that, to date, "a syllabus linked to the Judgment" has not been established. Regarding subparagraph b) of the operative paragraph regarding the improvement of the road network, the representatives emphasized the importance of "opening a dialogue with the institutions concerned" in order to define the ways of complying with each of the aspects pending compliance. Moreover, they indicated that the improvements made to some stretches of road were not effective because heavy rains made the roads impassable again. Finally, regarding the intercultural and bilingual teaching, referred to in subparagraph d) of said operative paragraph, they state that there are "differing opinions." They considered that even though the teachers speak Maya-Achí, this does not necessarily imply that "bilingual education is incorporated in the syllabus at all the different levels of education mentioned in the Judgment." They deemed it important that the State provide information regarding the syllabus for the different levels of education and the way it incorporates intercultural and bilingual education. Finally, they emphasized the importance of being able to discuss, with COPREDEH and the Ministry of Education, the procedures that are going to be introduced "to include intercultural and bilingual education as well as remembrance and restoring culture."

28. In relation to subparagraph a), in its observations presented on May 12, 2010, the Commission valued the efforts made by the State to support the work aimed at disseminating the Maya-Achí culture and it considered it was crucial that the cultural dissemination specifically reaches those Rabinal communities that were affected by the massacre. Regarding subparagraphs b) and d), the Commission took note of the information presented by both parties and highlighted the importance of "complying with this reparation measure through a coordinated action to actually implement it". Moreover, it valued the agreement to prepare a syllabus and a schedule to comply with

specific operative paragraphs of the Judgment. Furthermore, it noted that the State has still not presented information on the measures adopted regarding the sewage system and a potable water supply, in accordance with subparagraph c).

29. The Court deems that the actions taken by the State to implement programs in affected communities, on the study and dissemination of the Maya-Achí culture, comply with the Judgment. Therefore, the Court considers that the State has complied with subparagraph a) of operative paragraph nine of the Judgment.

30. Moreover, it values the measures adopted to maintain and improve the road network, as set forth in subparagraph b) of operative paragraph nine. In addition, the Tribunal deems it is important that the teaching personnel trained in intercultural and bilingual teaching, subparagraph d) of said paragraph, be supplied according to paragraphs 109 to 111 and 117 of the Judgment, for which it is necessary for the State to inform whether it has implemented educational programs incorporating bilingual and intercultural teaching at the different education levels. Lastly, the Court notes the lack of information regarding the implementation of subparagraph c) of said operative paragraph, which refers to the implementation of a sewage system and potable water supply. In consequence, in order to assess the state of compliance with operative paragraph nine, the Court deems it necessary for the State to forward updated and detailed information regarding the progress made in implementing the measures ordered in the Judgment.

F) To pay compensation for pecuniary and non-pecuniary damage to those individuals who are yet to receive full payment thereof (operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment on Reparations)

31. In its report of January 7, 2010, the State indicated that on December 22, 2009 it proceeded to pay, through the National Compensation Program [Programa Nacional de Resarcimiento], the corresponding compensation to Mr. Simeón Galeano Pirir, who served as legal representative for the minors who were declared heirs of the deceased Lucia Raxcacó. Moreover, it pointed out that on that same date “the third and last compensation payments were made” at the headquarters of COPREDEH to the heirs of Mrs. Natividad Morales, namely, Ricardo Tecú Manuel (husband) and Miguel de los Santos (son), María Dionisia, Pablo Tecú Morales, and Ana María Tecú Morales.

32. In this respect, nor the representatives or the Commission had made reference to the State's comments in relation to the payment made to the heirs of Lucia Raxcaco Sesám and Natividad Morales.

33. In view of the information and documentation furnished, the Court considers that the State has complied with the payment of the compensations to the heirs of Lucía Raxcacó Sesám and Natividad Morales, under the terms of paragraph 31 of this Order.

34. In relation to outstanding compensation payments for some victims, the State repeated the information presented in its report of April 9, 2009 and stated that the reason that certain persons had not yet received the payment was because “they [had not] appeared before their legal representatives or the Presidential Commission to demonstrate that they are surviving victims.” Regarding the victims mentioned in the Judgment with similar or identical names, it indicated that “to date, no people with those names had appeared.” Lastly, it mentioned that it is waiting for those people who had still not received the payment to appear with the documentation so required.

35. In its observations, the representatives deemed it necessary for the State to provide specific information on the "action taken to pay the corresponding compensatory amounts to the beneficiaries who, to date, had not claimed them". They further argued that said amount, according to the terms of paragraph 121 of the Judgment (*supra* Having Seen 2), should be deposited in dollars and in the most favorable terms in a solvent institution in order to guarantee prompt access thereto whenever the victims claim it.

36. The Commission stated that, regarding the information furnished by the parties, it is waiting for details on the deposits made to the people who had still not claimed their financial reparation.

37. The Court notes that the reports presented by the State and the observations of the representatives do not provide information about the persons who had still not appeared before the competent authorities to receive the corresponding compensation, or the status of the payments to persons with similar names, information that the Tribunal has repeatedly requested from the State and the representatives. Likewise, the State has not informed on the opening of an account or issuance of a deposit certificate in a banking institution in order to guarantee payment to the people in the circumstances set forth in paragraph 121 of the Judgment.

38. In view of the fact that there is no sufficient information to assess the state of compliance with all the compensatory payments ordered in the Judgment, the Tribunal reiterates the need for the parties to forward updated and individualized information on the status of the outstanding compensations for victims, be it because they had not yet appeared before the corresponding authorities or because they have identical or similar names, as it was determined in certain cases. The forwarding of such information in the term set forth in operative paragraph two of this Order is of utmost importance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercising its authority to monitor compliance with its decisions in accordance with Articles 33, 61(1), 62(3), 65, 67, and 68(1) of the American Convention on Human Rights, Article 25(1) and 30 of the Statute, and Article 31(2) and 69 of its Rules of Procedure,

DECIDES:

1. According to the terms of this Order, the State has complied with the translation of the American Convention on Human Rights into Maya-Achí, the dissemination of the translation in the municipality of Rabinal and its delivery to the victims (*operative paragraph four of the Judgment on Reparations*).

2. In accordance with the present Order, the State has partially complied with the following operative paragraph in relation to the following operative paragraphs of the Judgment on Reparations:

- a) To create programs in the affected communities on the study and dissemination of the Maya-Achí culture in these communities through the Guatemalan Academy of Mayan Languages, or a similar organization (*operative paragraph nine of the Judgment on Reparations*);
- b) To pay the heirs of Lucía Raxcacó Sesám the full compensation amount awarded to them by this Court as pecuniary and non-pecuniary damages, in accordance with Considering Clause 33 of the present Order (*operative paragraphs ten, eleven, thirteen, fourteen, and fifteen of the Judgment on Reparations*); and,
- c) To pay the heirs of Natividad Morales the full compensation amount awarded to them by this Court as pecuniary and non-pecuniary damages, in accordance with Considering Clause 33 of the present Order (*operative paragraphs ten, eleven, thirteen, fourteen, and fifteen of the Judgment on Reparations*).

3. In monitoring full compliance with the Judgment issued in the instant case, and after analyzing the information provided by the State, the Commission, and the representatives, the Court will keep the procedure open to monitor compliance with those aspects still pending compliance in the instant case, namely:

- a) To investigate, identify and, possibly, punish the perpetrators and masterminds of the Plan de Sánchez Massacre (*operative paragraph one of the Judgment on Reparations*);
- b) To provide free medical and psychological treatment, and medications, to any victims that need them (*operative paragraph seven of the Judgment on Reparations*);
- c) To provide adequate housing to any survivors from the village of Plan de Sánchez who need it (*operative paragraph eight of the Judgment on Reparations*);
- d) To create the following programs in the affected communities: b) maintain and improve the road network between the aforementioned communities and Rabinal, the municipal seat; c) provide a sewage system and drinkable water; and, d) provide teaching personnel for the affected communities who are trained in intercultural and bilingual teaching for primary, secondary and diversified education (*operative paragraph nine of the Judgment on Reparations*); and,
- e) To pay the compensation amount awarded in the Judgment as pecuniary and non-pecuniary damages to those individuals who were declared victims and have yet to receive full payment thereof, in accordance with Considering Clause 38 of the present Order (*operative paragraphs ten, eleven, thirteen, fourteen and fifteen of the Judgment on Reparations*).

AND RESOLVES:

1. To request that the State adopt all measures necessary to effectively and promptly comply with those points ordered by the Court in the Judgment that are outstanding, 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 June 7, 2011, a complete and detailed report with information on all the measures adopted to comply with the reparation measures ordered by this Tribunal that are still pending compliance and, in particular, refer to the information requested by this Tribunal, according to Considering Clauses 11, 20, 25, 30 and 38 of this Order.

3. To request that the representatives of the victims and the Inter-American Commission on Human Rights submit their relevant observations on the state report mentioned in the previous operative paragraph, within four and six weeks, respectively, following the receipt of said report. Furthermore, in their observations, the representatives must include the information requested by this Court, pursuant to the terms of Considering Clauses 37 and 38 of this Order.

4. To continue to monitor all operative paragraphs of the Judgment on reparations and costs of November 19, 2004, that are pending compliance.

5. To request that the Secretariat of the Court notify the Order to the State, the Inter-American Commission on Human Rights and the victims or the representatives of the victims.

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary