

Order of the
Inter-American Court of Human Rights
of November 21, 2007
Case of Maritza-Urrutia v. Guatemala
(Monitoring Compliance with Judgment)

HAVING SEEN:

1. The Judgment on the merits, reparations and legal costs delivered by the Inter-American Court of Human Rights (hereinafter, the "Court", the "Inter-American Court" or the "Tribunal") on November 27, 2003.¹
2. The Order issued by the Inter-American Court on September 21, 2005.
3. The report submitted by the State of Guatemala (hereinafter, the "State") on April 23, 2007, a year and three months after the expiration of the term fixed for its presentation.
4. The brief of April 26, 2004, whereby the representatives of the victim (hereinafter, the "representatives") submitted their observations to the State's report.
5. The brief of June 6, 2007, whereby the Inter-American Commission on Human Rights (hereinafter, the "Commission" or the "Inter-American Commission") submitted its observations to the report of the State.

CONSIDERING:

1. 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 since May 25, 1978, and that it accepted the binding jurisdiction of the Court on March 9, 1987.

¹ *Case of Maritza Urrutia v. Guatemala*. Merits, Reparations and Legal Costs. Judgment of November 27, 2003. Series C No. 103.

3. That, in consideration of section 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. Furthermore, section 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.²

4. That the obligation to comply with the rulings of the Court conforms to a basic principle of the law on the international responsibility of States, under which States are required to fulfill their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke their municipal laws to escape from their pre-established international responsibility.³ The treaty obligations of States Parties are binding on all the States' powers and organs.⁴

5. 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.⁵

² Cf. *Case of Baena-Ricardo et al. v. Panama*. Competence. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring Compliance with Judgment Order of the Inter-American Court of Human Rights of July 12, 2007; fourth Considering Clause; *Case of Molina-Theissen v. Guatemala*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 10, 2007, second Considering Clause.

³ Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Articles 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of September 9, 1994, Series A N°14, para. 35; *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring Compliance with Judgment. *Supra* 1; Sixth Having Seen Clause and *Case of Molina-Theissen v. Guatemala*, Monitoring Compliance with Judgment, *supra* note 2, Third Having Seen Clause.

⁴ Cf. *Case of Baena-Ricardo et al. v. Panama* Competence, *supra* note 2, para.60; *Case of Gómez-Palomino v. Peru*. Monitoring compliance with Judgment. Seventh Having Seen Clause and *Case of García-Asto and Ramírez-Rojas v. Peru*, *supra* note 2, Sixth Having Seen Clause.

⁵ Cf. *Case of Ivcher-Bronstein v. Peru*. Competence. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of García-Asto and Ramírez-Rojas v. Peru*, Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 12, 2007, Seventh Having Seen Clause; *Case of Molina-Theissen v. Guatemala*. Monitoring compliance with Judgment, *supra* note 2, Fourth Having Seen Clause.

6. That those States Parties to the American Convention that have accepted the binding jurisdiction of the Court are under a duty to fulfill the obligations set by the Tribunal. This obligation includes the State's duty to report on the measures adopted to comply with such decisions of the Court. Timely fulfillment of the State's obligation to report to the Court on the exact manner in which it is complying with each of the aspects ordered by the latter is essential to evaluate the whole status of compliance in this case. Furthermore, the General Assembly of the OAS has reiterated that, in order for the Court to fully meet its obligations to report to the General Assembly on compliance with its judgments, the States Parties need to provide, in time fashion, the information requested by the Court.⁶

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7. That, in its Order of September 21, 2005 (*supra*, Second Having Seen clause), the Court ordered the State to submit detailed information regarding the only issue that is pending compliance related to the duty to investigate the facts of the present case; identify, prosecute and punish those responsible and publish the results of the corresponding investigation (*fifth operative paragraph of the Judgment on merits and reparations of the case at hand*).

8. That, in the report of April 23, 2007 (*supra*, Third Having Seen Clause), the State informed that the Public Prosecutors Office on Human Rights of Guatemala was investigating the facts of the present case contained in the file and it also gave detailed information regarding the measures adopted by the State authorities from 1992 to 1999.

9. That, the representatives pointed out that the State "did not submit real information as to the advance of the investigation; rather the State only submitted information regarding a past situation, including measures adopted three years before the issuance of the Judgment" of the Inter-American Court. That, in the light of the above, they requested the Tribunal to urge the State to submit information regarding the measures taken as from November 2003, year in which such Judgment was delivered (*supra*, fourth Having Seen Clause).

⁶ General Assembly, Order AG/ RES 2292 (XXXVII-O/07) adopted at the fourth plenary session, held on June 5, 2007, entitled "Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights."

10. That the Commission remarked that the “State limited to repeat the investigative measures adopted between 1992 and 1999, all of which appear in the Judgment of the Court and have been already assessed at that time.” As a result, the Commission hopes that in the next report the State submits detailed and up to date information about the compliance with its obligations to investigate the facts; prosecute and punish the responsible and publish the results of the respective investigation (*supra* Fifth Having Seen clause).

11. That, the information submitted by the State in its report of April 23, 2007 (*supra*, third Having Seen clause), three months after the expiration of the term fixed for the submission, constitutes a clear evidence that the State has not fulfill the only issue that is still pending compliance in the present case. That, as pointed out by the representatives and the Inter-American Commission, the information submitted by the State so far relates to the measures adopted by the Office of the public prosecutor and the courts of Guatemala between 1992 and 1999; all of which has been already assessed by the Tribunal in the Judgment on merits, reparations and legal costs of the present case (*supra*, first Having Seen clause).

12. That the aspect that is still pending compliance (*supra*, Seventh Considering clause) must be promptly fulfilled by the State. That, as a result, **it is essential for the State to report on whether it has adopted any kind of measure as from the delivery of the Judgment on merits, reparations and legal costs of November 27, 2003 in order to comply with** the duty to effectively investigate the facts of the present case as well as to identify, prosecute and, if applicable, punish those responsible. Afterwards, the representatives as well as the Inter-American Commission will have the opportunity to submit the respective observations to the State’s report.

13. That, the Court will consider the general status of compliance with the Judgment and of the present Order, once it is provided with relevant information regarding its compliance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

by virtue of its authority to monitor compliance with its own decisions and 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 29(2) of its Rules of Procedure,

DECIDES:

1. To call upon the State of Guatemala to adopt such measures as may be necessary to promptly and effectively comply with the pending aspect ordered by the Inter-American Court of Human Rights in the Judgment of November 27, 2003 on merits, reparations and legal costs, pursuant to Article 68(1) of the American Convention on Human Rights.
2. To request that, by April 4th, 2008, the State of Guatemala submit to the Inter-American Court of Human Rights a detailed report specifying such measures as may have been adopted to comply with the fifth operative paragraph of the Judgment on merits, reparations and legal costs delivered in the instant case, as spelled out in the Considering clauses No. 11 and 12 of this Order.
3. To call upon the representatives of the victims and the Inter-American Commission on Human Rights to submit their observations to the State's report referred to in the preceding operative paragraph, within a period of four and six weeks, respectively, as from the date of receipt of the report.
4. To continue monitoring the aspect of the Judgment on merits, reparations and legal costs of November 27, 2003 that is still pending compliance.
5. To request that the Secretariat of the Court notify this Order to the State of Guatemala, the Inter-American Commission on Human Rights and the representatives of the victims.

Sergio García Ramírez
President

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Diego García-Sayán

Leonardo Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary