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INTER-AMERICAN COURT OF HUMAN RIGHTS



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OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

1998

**GENERAL SECRETARIAT
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006**

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I. ORIGIN, STRUCTURE AND JURISDICTION OF THE COURT

A. ESTABLISHMENT OF THE COURT

The Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court" or "the Tribunal") was brought into being by the entry into force of the American Convention on Human Rights or the "Pact of San Jose, Costa Rica" (hereinafter "the Convention" or "the American Convention") on July 18, 1978, when the eleventh instrument of ratification by a Member State of the Organization of American States (hereinafter "the OAS" or "the Organization") was deposited. The Convention was adopted at the Inter-American Specialized Conference on Human Rights, which took place from November 7 to 22, 1969, in San Jose, Costa Rica.

The two organs for the protection of human rights provided for under Article 33 of the Pact of San Jose, Costa Rica, are the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and the Court. The function of these organs is to ensure the fulfillment of the commitments made by the States Parties to the Convention.

B. ORGANIZATION OF THE COURT

In accordance with the terms of the Statute of the Court (hereinafter "the Statute"), the Court is an autonomous judicial institution which has its seat in San Jose, Costa Rica, and has as its purpose the application and interpretation of the Convention.

The Court consists of seven judges, nationals of the Member States of the OAS, who act in an individual capacity and are elected "from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the state of which they are nationals or of the state that proposes them as candidates" (Article 52 of the Convention). Article 8 of the Statute provides that the Secretary General of the OAS shall request the States Parties to the Convention to submit a list of their candidates for the position of judge of the Court. In accordance with Article 53(2) of the Convention, each State Party may propose up to three candidates.

The judges are elected by the States Parties to the Convention for a term of six years. The election is by secret ballot. Judges are elected by an absolute majority vote in the OAS General Assembly shortly before the expiration of the terms of the outgoing judges. Vacancies on the Court caused by death, permanent disability, resignation or dismissal shall be filled, if possible, at the next session of the OAS General Assembly (Article 6(1) and 6(2) of the Statute).

Judges, whose terms have expired, shall continue to serve with regard to cases that they have begun to hear and that are still pending (Article 54(3) of the Convention).

If necessary, in order to maintain a quorum of the Court, one or more interim judges may be appointed by the States Parties to the Convention (Article 6(3) of the Statute). "If a judge is a national of any of the States Parties to a case submitted to the Court, [that judge] shall retain [the]

right to hear that case. If one of the judges called upon to hear a case is a national of one of the States Parties to the case, any other State Party to the case may appoint a person to serve on the Court as an ad hoc judge. If among the judges called upon to hear a case, none is a national of the States Parties to the case, each of the latter may appoint an ad hoc judge" (Article 10(1), 10(2) and 10(3) of the Statute).

States Parties to a case are represented in the proceedings before the Court by the agents they designate (Article 21 of the Rules of Procedure).

The judges are at the disposal of the Court and hold as many regular sessions a year as may be necessary for the proper discharge of their functions. They may also meet in special sessions when convened by the President of the Court (hereinafter "the President") or at the request of a majority of the judges. Although the judges are not required to reside at the seat of the Court, the President shall render his services on a permanent basis (Article 16 of the Statute).

The President and the Vice President are elected by the judges for a period of two years and may be reelected (Article 12 of the Statute).

There is a Permanent Commission of the Court (hereinafter "the Permanent Commission") composed of the President, the Vice President and any other judge whom the President considers convenient, according to the needs of the Court. The Court may also create other commissions for specific matters (Article 6 of the Rules of Procedure).

The Secretariat functions under the direction of a Secretary, who is elected by the Court (Article 14 of the Statute).

C. COMPOSITION OF THE COURT

Throughout 1998, the composition of the Court was as follows in order of precedence:

Hernán Salgado-Pesantes (Ecuador), President
Antônio A. Cançado Trindade (Brazil), Vice President
Máximo Pacheco-Gómez (Chile)
Oliver Jackman (Barbados)
Alirio Abreu-Burelli (Venezuela)
Sergio García-Ramírez (Mexico) and
Carlos Vicente de Roux-Rengifo (Colombia).

In the same vein, States Parties that have been sued have exercised the right to appoint an *ad hoc* judge in nine cases already pending in the Court (Article 55(1) of the Convention). The list of *ad hoc* judges, and the cases for which they have been appointed, is the following:

Paniagua Morales *et al.* Case.....Edgar E. Larraondo-Salguero (Guatemala)
Blake Case..... Alfonso Novales-Aguirre (Guatemala)
Cantoral Benavides Case,
Durand and Ugarte Case, and

Castillo Petruzzi <i>et al.</i> Case.....	Fernando Vidal-Ramírez (Peru)
Cesti Hurtado Case	David Pezúa-Vivanco ¹ (Peru)
Baena Ricardo <i>et al.</i> Case.....	Rolando A. Reyna-Rodríguez (Panama)
Indigenous Community Mayagna Awas Tingni Case...	Alejandro Montiel-Argüello (Nicaragua)
Las Palmeras Case.....	Pending ²

The Secretary of the Court is Manuel E. Ventura-Robles and the Interim Deputy Secretary was Víctor M. Rodríguez-Rescia.

D. JURISDICTION OF THE COURT

The Convention confers contentious and advisory functions on the Court. The first function involves the power to adjudicate disputes relating to charges that a State Party has violated the Convention. The second function involves the power of the Member States to request that the Court interpret the Convention or "other treaties concerning the protection of human rights in the American States." Within their spheres of competence, the organs listed in the Charter of the OAS may in like manner consult the Court.

1. The Contentious Jurisdiction of the Court

The contentious jurisdiction of the Court is spelled out in Article 62 of the Convention, which reads as follows:

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.
2. Such declaration may be made unconditionally, or under the condition of reciprocity, for a specified period, or for specific cases. It shall be presented to the Secretary General of the Organization, who shall transmit copies thereof to the other members states of the Organization and to the Secretary of the Court.
3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement.

Since States Parties are free to accept the Court's jurisdiction at any time, a State may be invited to do so for a specific case.

¹ On December 10, 1998, Mr. David Pezúa-Vivanco, appointed by the State of Peru, as an *ad hoc* judge in the Cesti Hurtado Case, communicated to the Court his resignation to this appointment. Pursuant to the instructions given by the President in this matter, the Court will hear this mater during its XLIII Regular Session, in January, 1999.

² During the XLII Regular Session of the Court, Judge Carlos Vicente de Roux-Rengifo communicated his apology for the hearing of Las Palmeras Case. The time frame given to the State of Colombia to appoint an *ad hoc* judge was still pending on the closing date of the present report.

Pursuant to Article 61(1) of the Convention, "[o]nly the States Parties and the Commission shall have the right to submit a case to the Court."

Article 63(1) of the Convention contains the following provision relating to the judgments that the Court may render:

[i]f the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

Paragraph 2 of Article 68 of the Convention provides "[t]hat part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the state."

Article 63(2) of the Convention provides that:

[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

The judgment rendered by the Court in any dispute is "final and not subject to appeal." Nevertheless, "[i]n case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment" (Article 67 of the Convention). The States Parties "undertake to comply with the judgment of the Court in any case to which they are parties" (Article 68(1) of the Convention).

The Court submits a report on its work to the General Assembly at each regular session, and it "[s]hall specify, in particular, the cases in which a state has not complied with its judgments" (Article 65 of the Convention).

2. The Advisory Jurisdiction of the Court

Article 64 of the Convention reads as follows:

1. The member states of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.
2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

The standing to request an advisory opinion from the Court is not limited to the States Parties to the Convention. Any OAS Member State may request such an opinion.

Likewise, the advisory jurisdiction of the Court enhances the Organization's capacity to deal with questions arising from the application of the Convention because it enables the organs of the OAS to consult the Court within their spheres of competence.

3. Recognition of the Contentious Jurisdiction of the Court

Twenty States Parties have recognized the contentious jurisdiction of the Court. They are Costa Rica, Peru, Venezuela, Honduras, Ecuador, Argentina, Uruguay, Colombia, Guatemala, Suriname, Panama, Chile, Nicaragua, Trinidad and Tobago³, Paraguay, Bolivia, El Salvador, Haiti⁴, Brazil⁵ and Mexico⁶.

The status of ratification and accessions to the Convention can be found at the end of this report (**Appendix XXXIII**).

E. BUDGET

Article 72 of the Convention provides that "the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it." Pursuant to Article 26 of its Statute, the Court administers its own budget.

F. RELATIONS WITH OTHER SIMILAR REGIONAL ORGANIZATIONS

The Court has close institutional ties with the Commission. These ties have been strengthened through meetings between the members of the two bodies, held at the recommendation of the General Assembly. The Court also maintains cooperative relations with the Inter-American Institute of Human Rights, established by an agreement between the Government of Costa Rica and the Court, which entered into force on November 17, 1980. The Institute is an autonomous, international academic institution with a global, multidisciplinary approach to the teaching, research and promotion of human rights. The Court also maintains institutional ties with the European Court of Human Rights, which was established by the Council of Europe and has functions similar to those of the Inter-American Court.

II. JURISDICTIONAL AND ADVISORY ACTIVITIES OF THE COURT

A. XXXIX REGULAR SESSION OF THE COURT

From January 19 through January 21, 1998, the Court held its XXXIX Regular Session at its seat in San Jose, Costa Rica. The composition of the Court was as follows: Hernán Salgado-Pesantes

³ The Republic of Trinidad and Tobago notified the Organization of its denunciation of the American Convention on May 26, 1998.

⁴ The Republic of Haiti recognized as binding the jurisdiction of the Court on March 3, 1998.

⁵ Brazil recognized as binding the jurisdiction of the Court on December 10, 1998.

⁶ The United States of Mexico recognized as binding the jurisdiction of the Court on December 16, 1998.

(Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux Rengifo (Colombia). For the pertinent parts of the session, the *ad hoc* judge named by the Republic of Argentina for the Garrido and Baigorria Case, Mr. Julio A. Barberis, also participated. Also present were the Secretary of the Court, Manuel E. Ventura-Robles and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. The following matters were considered during this session:

1. Swearing in of the New Judges of the Court

As a result of having been elected as Judges to the Inter-American Court during the XXVII Regular Session of the General Assembly of the OAS, held between June 1 and 5, 1997, in Lima, Peru, the Court swore in judges Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia).

2. Reform of the Rules of Procedure of the Court

The Court approved a reform to Article 57(1) of its Rules of Procedure (**Appendix II**), which reads in the following manner:

When a case is ready for a judgment, the Court shall meet in private. A preliminary vote shall be taken, the wording of the judgment approved, and the parties shall be so notified by the Secretariat.

After considering the notification procedure of judgments established in its previous Rules of Procedure, in virtue of the principles of economic and procedural efficiency, the Court adopted this with the purpose of eliminating the practice of holding a public for the reading and notification of judgments.

3. Garrido and Baigorria Case

On January 20, 1998, the Court held a public hearing and heard the arguments of the representatives of the victims, the Inter-American Commission and the State of Argentina regarding the reparations in this case.

4. Provisional Measures in the Alvarez *et al.* Case - Colombia

By Order of January 21, 1998 (**Appendix III**), the Court confirmed the December 22, 1997, Order of its President, which expanded the provisional measures adopted by the Court in the Alvarez *et al.* Case, currently being heard by the Inter-American Commission. In its Order, the Court called upon the State of Colombia to maintain the measures necessary to protect the life and personal integrity of José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacón, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio,

Miriam Rosas Ascanio, Javier Alvarez, and María Eugenia Cárdenas and her family. The Court also called upon the State of Colombia to maintain the measures necessary to ensure that the offices of the Asociación de Familiares de Detenidos-Desaparecidos de Colombia (ASFADDES) can do their regular functions without danger to the life or personal integrity of those that work their, in particular the offices of the Association in the cities of Medellín and Ocaña.

5. Provisional Measures in the Cesti Hurtado Case - Peru

The measures in this case were adopted by the President of the Court on July 29, 1997, and ratified by the Court on September 11, 1997, with the purpose of ensuring the physical, psychological and moral integrity of Mr. Gustavo Cesti-Hurtado, the alleged victim in a case in its initial proceedings before the Court. On January 21, 1998, the Court emitted an Order (**Appendix IV**) in which it ordered the State of Peru to maintain the provisional measures adopted in this case and also to permit Mr. Cesti-Hurtado to receive the medical treatment of his choice.

6. Other Matters

The Court considered various other procedural matters pending before it, such as the reports presented by those States that had adopted provisional measures and the observations presented by the Inter-American Commission to those reports. The Court then emitted the orders it considered pertinent to the documentation presented. The Court also reviewed and approved its 1997 Annual Report, which was submitted to the consideration of the General Assembly of the OAS during its XXVIII Regular Session (*infra* III.D).

B. XXII SPECIAL SESSION OF THE COURT

From January 22 - 30, 1998, the Court held the XXII Special Session at its seat in San José, Costa Rica. The composition of the Court was the following: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Héctor Fix-Zamudio (México); Alejandro Montiel-Argüello (Nicaragua); Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados) and Alirio Abreu-Burelli (Venezuela). The *ad hoc* Judges named by the State of Guatemala, Alfonso Novales-Aguirre (Blake Case) and Edgar E. Larraondo-Salguero (Paniagua Morales *et al.* Case), also participated. Also present were the Secretary of the Court, Manuel E. Ventura-Robles and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. During this session, the Court heard the following matters:

1. Blake Case

On January 24, 1998, the Court deliberated and handed down a judgment in the Blake Case (**Appendix V**), in which, by seven votes against one, it found that the State of Guatemala violated the judicial guarantees established in Article 8(1) of the Convention to the detriment of the next of kin of Mr. Nicholas Chapman Blake. Unanimously, the Court found that Guatemala violated Article 5 of the Convention, in conjunction with Article 1(1) of the same, to the detriment of the next of kin of Mr. Blake; that the State was obligated to use all of the means in its power to investigate the events denounced and to punish those responsible. The Court also ordered the State to pay fair compensation to the next of kin of Mr. Blake and to reimburse the expenses they have incurred for

the pertinent actions before the Guatemalan authorities during the case, and it ordered that the reparations phase be opened. Judge Montiel-Argüello, presented the Court with his Dissenting Opinion, Judge Cançado Trindade presented his Reasoned Opinion, and Judge Novales-Aguirre his Reasoned Concurring Opinion, all of which accompany the Judgment.

2. Paniagua Morales *et al.* Case

The Court deliberated on the Paniagua Morales *et al.* Case in hopes of adopting a decision on the merits during the XXIII Special Session (*infra* II. C.1).

C. XXIII SPECIAL SESSION OF THE COURT

From March 1 - 8, 1998, the Court held its XXIII Special Session at its seat in San José, Costa Rica. The composition of the Court was as follows: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Héctor Fix-Zamudio (México); Alejandro Montiel-Argüello (Nicaragua); Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados) and Alirio Abreu-Burelli (Venezuela). The *ad hoc* Judge named by the State of Guatemala, Edgar E. Larraondo-Salguero also participated in the Paniagua Morales *et al.* Case. Also present were the Secretary of the Court, Manuel E. Ventura-Robles and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. During this session, the Court the following matters:

1. Paniagua Morales *et al.* Case

On March 8, 1998, the Court handed down a judgment on the merits in this case (**Appendix VI**), in which it unanimously declared that the State of Guatemala violated Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, all in conjunction with Article 1(1) of the same, to the detriment of Ana Elizabeth Paniagua-Morales, Julián Salomón Gómez-Ayala, William Otilio González-Rivera, Pablo Corado-Barrientos and Manuel de Jesús González-López. The Court also found that Guatemala violated Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture to the detriment of Augusto Angárita-Ramírez and Oscar Vásquez. Additionally, the Court found that the State had violated Article 7 of the American Convention, in conjunction with Article 1(1) of the same, to the detriment of Augusto Angárita-Ramírez, Doris Torres-Gil and Marco Antonio Montes-Letona and Article 8, in relation to Article 1(1), to the detriment of Erik Leonardo Chinchilla.

The Court found that the State should conduct a true and effective investigation to determine those responsible for the human rights violations referred to in this judgment and to eventually punish those responsible; to repair the consequences of the set forth violations; and to pay fair compensation to the victims and, in its case, to the next of kin. Finally, the Court ordered the opening of the reparations phase of the case and commissioned its President to take the relevant decisions.

2. Loayza Tamayo Case

On March 8, 1998, the Court emitted an Order (**Appendix VII**) in which it unanimously decided, to dismiss as inadmissible the request by the State of Peru for an interpretation of the Judgment on the merits in the Loayza Tamayo Case. Among other considerations, the Court based its decision on the fact that the request of Peru attempted to modify the judgment and not to interpret it.

On December 19, 1997, Peru presented the Court, in accordance with Article 67 of the American Convention, with the request for interpretation of said judgment. Article 67 establishes that “[i]n case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.”

D. XL REGULAR SESSION OF THE COURT

From June 8 - 19, 1998, the Court held its XL Regular Session at its seat in San José, Costa Rica. The composition of the Court was as follows: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia). The *ad hoc* Judge named by the State of Peru, Fernando Vidal-Ramírez, participated in the Cantoral Benavides, Castillo Petruzzi and Durand and Ugarte Cases. In the Blake Case, the *ad hoc* Judge named by the State of Guatemala, Alfonso Novales-Aguirre, also participated. Judge Antônio A. Cançado Trindade presided over the Benavides Cevallos and Suárez Rosero Cases since Judge Hernán Salgado-Pesantes ceded the Presidency in these Cases against the State of Ecuador due to his Ecuadorian nationality (Article 4(3) of the Rules of Procedure of the Court). Also present were the Secretary of the Court, Manuel E. Ventura-Robles and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. The following matters were considered during this session:

1. Cantoral Benavides, Castillo Petruzzi *et al.* and Durand and Ugarte Cases

On June 8, 1998, the Court held three public hearings on the preliminary objections interposed by Peru in the Cantoral Benavides, Castillo Petruzzi and Durand and Ugarte Cases, during which it heard the points of view of the State and of the Inter-American Commission. In the Cantoral Benavides Case, the Court also emitted Orders on June 8 and June 18, 1998, (**Appendix VIII and X**), in which it rejected a request by the Peruvian State for the dismissal of the Case because of the pardon given to Mr. Cantoral Benavides. In the opinion of the Court, this pardon did not comply with the requirements of admission established by Article 52(2) of the Rules of Procedure of the Court.

2. Loayza Tamayo and Castillo Páez Cases

On June 9, 1998, the Court held two public hearings on the reparations in the Loayza Tamayo and Castillo Páez Cases in order to hear the arguments of Peru, the Inter-American Commission and of the injured parties. In the Loayza Tamayo Case, the Court heard the testimony of Ms. María Elena Loayza-Tamayo, the victim in this Case.

3. Suárez Rosero and Blake Cases

On June 10, 1998, the Court held two public hearings on the reparations in the Suárez Rosero and Blake Cases, against Ecuador and Guatemala, respectively, in order to hear the arguments of both States, the Commission and by the injured parties. In the Suárez Rosero Case, the Court also heard testimony from Mr. Rafael Iván Suárez-Rosero, the victim in this case. This hearing was presided over by the Vice President, Judge Antônio A. Cançado Trindade, since the President of the Court, Judge Hernán Salgado-Pesantes, in accordance with Article 4(3) of the Rules of Procedure, ceded the Presidency due to his Ecuadorian nationality.

4. Benavides Cevallos Case

On June 11, 1998, the Court held a public hearing on the merits of the Benavides Cevallos Case against Ecuador and heard arguments from the State and the Commission. This hearing was presided over by the Vice President, Judge Antônio A. Cançado Trindade, since the President of the Court, Judge Hernán Salgado-Pesantes, in accordance with Article 4(3) of the Rules of Procedure, ceded the Presidency due to his Ecuadorian nationality. During this hearing, the State presented a friendly settlement agreement with the parents of Professor Consuelo Benavides-Cevallos, the victim in this case. The settlement included recognition of the State's international responsibility and a compensation of US\$1,000,000.00 (one million dollars of the United States of America) and other reparation measures. The Court handed down a Judgment on June 19, 1998 (**Appendix XVII**), in which it considered admissible the acquiescence by Ecuador to the allegations made by the Commission. The Court took note of the State's recognition of international responsibility and stated its conformity with the terms of this recognition and found that the State violated the rights protected in Articles 3, 4, 5, 7, 8 and 25 of the Convention, all in conjunction with Article 1(1) of the same, to the detriment of Professor Consuelo Benavides-Cevallos. The Court also approved the agreement between the State and the next of kin of the victim in regards to the reparations and ordered the State to continue the investigations to punish all of those responsible for the human rights violations referred to in the Judgment.

5. Advisory Proceedings OC-16

On June 12 and 13, 1998, the Court held a public hearing in regards to the request for Advisory Opinion OC-16, presented by the United States of Mexico and heard observations from:

- a) States: United States of Mexico, United States of America, Costa Rica, El Salvador, Guatemala, Paraguay, Honduras, and the Dominican Republic. Canada also attended this public hearing as an observer.
- b) Organs of the Organization of American States: Inter-American Commission on Human Rights.
- c) Non-Governmental Organizations: Amnesty International, Comisión Mexicana de Defensa y Promoción de Defensa y Promoción de los Derechos Humanos (Mexican Commission for the Defense and Promotion of Human Rights), Human Rights Watch/Americas and CEJIL, and Death Penalty Focus of California.

d) Institutions, Jurists and individuals as *amici curiae*: International Human Rights Law Institute and the MacArthur Justice Center; Sandra Babcock and Margaret Pfeiffer, both from the Minnesota Advocates for Human Rights and as individuals; Laurence E. Komp, Gregory W. Meyers and Luz López-Ortiz, in representation of the defense of José Trinidad Loza; Ambassador Héctor Gros Espiell; John Quigley and Mark J. Kadish.

6. Provisional Measures in the James *et al.* Case – Trinidad and Tobago

On May 22, 1998, the Inter-American Commission presented a request for provisional measures concerning five cases in proceedings before it in regards to the death penalty sentenced against five detained Trinidad and Tobago citizens (Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel). On May 27, 1998, the President of the Court, Judge Hernán Salgado-Pesantes, adopted urgent measures and on June 14, 1998, the Court emitted an Order (**Appendix IX**), in which it called upon Trinidad and Tobago to take all of the measures necessary to preserve the life and personal integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, in order to not obstruct the proceedings of their cases before the inter-American system.

7. Bámaca Velásquez Case

On June 16, 17 and 18, 1998, the Court held a public hearing on the merits of the Bámaca Velásquez Case against Guatemala. During the hearing it received testimony from seven witnesses and an expert and heard the closing arguments of the Commission and the State. On June 19, 1998, the Court issued an Order on the evidence (**Appendix XIV**). Judges Pacheco-Gómez and de Roux-Rengifo presented their Dissenting Opinion, and Judge García-Ramírez his Concurrent Opinion, all of which accompany the resolution.

8. Provisional Measures in the Álvarez *et al.* Case – Colombia

By Order of June 19, 1998, (**Appendix XI**) the Court extended the provisional measures adopted on behalf of Ms. María Elena Cárdenas as long as the situation of risk that resulted in the measures continues. At the same time, it decided to extend until September 6, 1998, the provisional measures taken on behalf of José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacón, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio, Miriam Rosas Ascanio and Javier Alvarez. The Court also ordered that the State conduct investigations and, if possible, to punish those responsible for the denounced events.

9. Provisional Measures in the Clemente Teherán *et al.* Case - Colombia

By Order of June 19, 1998 (**Appendix XII**), the Court ratified the Order of its President of March 23, 1998, and continued the provisional measures taken to ensure the life and personal integrity of 22 people from the Zenú indigenous community. The Court also ordered Colombia to adopt as many measures as necessary to investigate the denounced acts and to discover and punish those responsible.

10. Provisional Measures in the Carpio Nicolle Case - Guatemala

By Order of June 19, 1998 (**Appendix XIII**), the Court lifted the provisional measures on behalf of Mario López-Arrivillaga, Angel Isidro Girón-Girón, Abraham Méndez-García, and Lorraine Marie Fischer-Pivaral and continued the measures on behalf of Marta Elena Arrivillaga de Carpio and Karen Fischer de Carpio. The Court also reiterated to the State of Guatemala that its next report should include documentation on case No. 1011/97 and to provide information on the advances made in the investigation into the denounced events that motivated the provisional measures.

11. Provisional Measures in the Giraldo Cardona Case – Colombia

By Order of June 19, 1998 (**Appendix XV**), the Court lifted the provisional measures adopted on behalf of Mr. Gonzalo Zárate; called upon the State to adopt as many measures as necessary to protect the life and personal integrity of Sister Noemy Palencia upon her return to Meta; continued the provisional measures on behalf of Islena Rey Rodríguez, Mariela de Giraldo and her two minor children, Sara and Natalia Giraldo; and stated that, as an essential element in the duty to protect, Colombia should take effective measures to investigate and, in its case, to punish those responsible for the denounced events.

12. Provisional Measures in the Paniagua Morales *et al.* and Vásquez *et al.* Cases - Guatemala

By Order of June 19, 1998 (**Appendix XVI**), the Court ratified the February 10, 1998, Order of its President, continued the provisional measures to effectively ensure the personal integrity of the Vásquez family and called upon the State of Guatemala to inform the Tribunal on the measures it had taken to investigate the events that motivated the adoption of urgent measures by its President.

E. XLI REGULAR SESSION OF THE COURT

From August 23 through September 6, 1998, the Court held its XLI Regular Session at its seat in San Jose, Costa Rica. The composition of the Court was as follows: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia). For the Garrido and Baigorria Case, the *ad hoc* judge named by the Republic of Argentina, Mr. Julio A. Barberis, also participated. For the Cantoral Benavides and Castillo Petruzzi *et al.* Cases, the *ad hoc* judge named by Peru, Fernando Vidal-Ramírez, also participated. Also present were the Secretary of the Court, Manuel E. Ventura-Robles, and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. During this Session, the Court heard the following matters.

1. Garrido and Baigorria Case

From August 25 - 27, 1998, the Court, in accordance with its February 2, 1996, Judgment and the Order of January 31, 1997, deliberated and fixed the reparations and costs that should be paid to the next of kin of Adolfo Garrido and Raúl Baigorria. The Court handed down the Reparations

Judgment on August 27, 1998, in which it fixed the amount of the reparations, the reimbursement for the costs of the proceedings, and determined the non-monetary reparation measures it considered pertinent in this case (**Appendix XIX**).

2. Provisional Measures in the James *et al.* Case – Trinidad and Tobago

On August 28, 1998, the Court held a public hearing at its seat in order to hear the observations of the Commission and of the State of Trinidad and Tobago in the matter of the provisional measures adopted on June 14, 1998, and the matter of the urgent measures taken by the President through Orders of June 29 and July 13 and 22, 1998. Despite the fact that on August 19, 1998, the President of the Court, Judge Hernán Salgado-Pesantes, sent a note to the State reiterating the importance of their presence during the public hearing, Trinidad and Tobago did not attend. Through a previous note of August 11, 1998, the State had previously informed it would not attend the hearing and also stated it did not accept any responsibility derived from the lack of organization of the proceedings before the Inter-American Commission in relation to this matter.

On August 29, 1998, after hearing the observations of the Commission during the public hearing, the Court emitted an Order in which it ratified the Orders of the President of June 29, and July 13 and 22, 1998, and requested that Trinidad and Tobago take all of the measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, as well as to not obstruct the proceedings in these cases before the inter-American system. Judge García-Ramírez presented a Concurring Opinion to the Order (**Appendix XXII**), which accompanies the Order.

3. Cantoral Benavides Case

By Judgment of September 3, 1998, the Court dismissed the preliminary objections put forth by the Peruvian State and decided to continue with the merits of the case (**Appendix XXVI**). Judges de Roux-Rengifo and Vidal-Ramírez presented the Court with their Dissenting Opinions, all of which accompany the Judgment.

4. Castillo Petruzzi *et al.* Case

By Judgment of September 4, 1998, the Court dismissed the first, second, fourth, fifth, sixth, seventh, eighth, ninth, and tenth preliminary objections put forth by the Peruvian State in this case; admitted the third objection presented by said State and decided to continue with the proceeding, except to that referring to this last objection. Judge Antônio A. Cançado Trindade presented the Court his Concurring Opinion, Judge de Roux-Rengifo presented his partially Dissenting Opinion and Judge García-Ramírez his Dissenting Opinion, all of which accompany the Judgment (**Appendix XXVII**).

5. Provisional Measures in the Bámaca Velásquez Case - Guatemala

The Court studied the request for provisional measures presented by the Inter-American Commission on June 24, 1998, to protect the life and personal integrity of Mr. Santiago Cabrera-López, a witness that testified before the Court in this case. The Court also studied the observations

of the State of Guatemala and of the Commission on the urgent measures taken by the President in his June 30, 1998, Order. In this regard, by Order of August 29, 1998, the Court ratified the Order of its President and ordered the State to maintain the measures necessary to protect the life and personal integrity of Alfonso Cabrera-Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar-Cabrera, Olga Maldonado and Carlos Alfonso Cabrera (**Appendix XX**).

6. Provisional Measures in the *Álvarez et al.* Case - Colombia

On August 29, 1998 (**Appendix XXI**), the Court decided to ratify the August 6, 1998, Order of its President in regards to a request to expand the provisional measures requested by the Inter-American Commission on August 4 of the same year, on behalf of Mr. Daniel Prado and his family. At the same time, the Court decided to continue the provisional measures on behalf of José Daniel Alvarez, Nidia Linores-Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacón, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio, Miriam Rosas Ascanio, Javier Alvarez, Erik A. Arellano Bautista and María Eugenia Cárdenas and her family.

7. Loayza Tamayo Case

On its Order of August 29, 1998 (**Appendix XXIII**), about the evidence on the proceeding on reparations in the instant Case, the Court requested the Medical Association of Chile and Peru, to request in evidence to better resolve the matter, to issue up a medical report about the psychological and physical conditions of Ms. María Elena Loayza-Tamayo and about the psychological health of her daughter Gisselle Elena and her son Paul Abelardo Zambrano-Loayza.

8. Genie Lacayo Case

By Order of August 29, 1998 (**Appendix XXIV**), the Court closed the Genie Lacayo Case after considering that the documentation presented by the State of Nicaragua regarding compliance with the January 29, 1997, Judgment of the Court demonstrated that the State, in accordance with Article 68(1) of the American Convention on Human Rights, had complied with said Judgment. Article 68(1) imposes an obligation on the States Parties of the Convention to comply with the judgments handed down by the Court. Judge Antônio A. Cançado Trindade presented the Court his Separate Opinion, which is attached to the mentioned Order.

9. Neira Alegría *et al.* Case

On its Order of August 29, 1998 (**Appendix XXV**), on the proceeding on reparations in the Neira Alegría *et al.* Case, the Court requested Peru, according to the Judgment of September 19, 1996, to take all the necessary measures so that the beneficiaries of the reparations receive the amount of the corresponding indemnization and also in regard the trust fund of which they are beneficiaries, constituted on the Nation's Bank (Banco de la Nación).

F. SPECIAL HEARING IN THE BAMACA VELASQUEZ CASE, HELD IN WASHINGTON, D.C., UNITED STATES OF AMERICA

On October 15, 1998, a public hearing was held on the merits of the Bámaca Velásquez Case at the OAS headquarters in Washington, D.C., United States of America. During this hearing, the Commission designated by the Court, comprised of Judges Hernán Salgado-Pesantes, President; Antônio A. Cançado Trindade, Vice President; and Alirio Abreu-Burelli and the Secretaries of the Court, heard the testimony of the witness Otoniel de la Roca-Mendoza, who did not testify in the June 16, 1998, first public hearing at the Court on this case, due to immigration reasons.

G. XLII REGULAR SESSION OF THE COURT

From November 16 - 27, 1998, the Court held its XLII Regular Session at its seat in San José, Costa Rica. The composition of the Court was the following: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia). In the Cesti Hurtado Case, the *ad hoc* Judge named by Peru, David Pezúa-Vivanco, did not attend. In the Castillo Petruzzi Case, the *ad hoc* Judge named by Peru, Fernando Vidal-Ramírez, also participated. Also present were the Secretary of the Court, Manuel E. Ventura-Robles and the Interim Deputy Secretary, Víctor M. Rodríguez-Rescia. During this Session, the Court heard the following matters:

1. Loayza Tamayo Case

The Court deliberated and fixed the reparations in this case in accordance with that ordered in its September 17, 1997, Judgment.

The Court, by Judgment of November 27, 1998 (**Appendix XXVIII**), also ordered measures of restitution, the compensatory damages, the other forms of reparation and the measures related to the duty to act domestically with what the Court considered pertinent in this case. At the same time, the Court established the corresponding amounts of the legal costs and expenses and the conditions for compliance with the Judgment. Judge de Roux-Rengifo presented his Partially Dissenting Opinion; Judges Antônio A. Cançado Trindade and Alirio Abreu-Burelli presented a Joint Reasoned Opinion; Judge Jackman presented his Reasoned Concurring Opinion; and Judge García-Ramírez presented his Concurring Opinion, all of which accompany the Judgment.

2. Castillo Páez Case

The Court deliberated and determined the reparations and costs the State of Peru should pay in this case to the next of kin of Mr. Ernesto Rafael Castillo-Páez in accordance with that ordered in the November 3, 1997, Judgment.

In this regard, the Court, by Judgment of November 27, 1998 (**Appendix XXIX**), set the amount the State should pay as reparations to the next of kin of Ernesto Rafael Castillo-Páez, the amount corresponding to the reimbursement of the costs incurred in domestic law, and the non-monetary reparation measures the Court considered pertinent in the present case. Judges Cançado Trindade and Abreu-Burelli presented their Joint Reasoned Opinion, and Judge García-Ramírez presented his Concurring Vote, all of which accompany the Judgment.

3. Bámaca Velásquez Case

On November 22 and 23, 1998, the Court held the third public hearing on the merits of this case at its seat and heard testimony from eight witnesses proposed by the Inter-American Commission that had not yet appeared before the Tribunal. These witnesses testified on their knowledge of the events in the application.

4. Cesti Hurtado Case

On November 24, 1998, the Court held a public hearing on the preliminary objection interposed by Peru, during which it heard the opinion of two experts on the judgment of habeas corpus, its immutability and finality from the procedural and constitutional law point of view, respectively. They analyzed these judgments both doctrinally and in relation with Peruvian norms. The objections interposed by the State of Peru in this case, and refuted by the Inter-American Commission, were based on the non-exhaustion of domestic remedies, and the “incompetence and jurisdiction”, in something tried and the lack of a previous reclamation before the Inter-American Commission.

5. Castillo Petruzzi *et al.* Case

On November 25, 1998, the Court held a public hearing on the merits in this case at its seat in order to hear the testimony of three witnesses proposed by the Inter-American Commission. Mainly they testified on the alleged irregularities and violations of legal due process in the cases against the alleged victims in this case and also on the application of Decree-Law No. 25.659 for treason and Decree-Law No. 25.708 on the procedures in cases of treason.

6. Gangaram Panday Case

After supervising compliance of its January 21, 1994, Judgment for various years, the Court, on November 27, 1998 (**Appendix XXX**), emitted an Order in which it declared that the State of Suriname had satisfactorily complied with said Judgment and closed the case.

7. Provisional Measures in the Carpio Nicolle Case - Guatemala

The Court studied the 26th and 27th Reports of the State and the Observations of the Commission to the 21th report. On November 27, 1998, the Court emitted an Order, in which it declared that the State had taken the pertinent measures to resolve the actual and future situation of Ms. Karen Fischer de Carpio, in compliance with its obligation to effectively ensure the protection of life and personal integrity of said person and called upon the State to include in its next report appropriate documentation on the status of Case 1011-97 and on the concrete advances in the investigations into the denounced threats and acts of intimidation.

8. Provisional Measures in the Colotenango Case - Guatemala

The Court studied the seventh, eighth, and ninth Reports of the State of Guatemala and the Observations of the Commission of October 1, 1998. On November 27, 1998, the Court emitted an

Order in which it called upon the State to include in its next report a detailed statement of the protection measures provided to Lucía Quila Colo, Fermina López-Castro and Patricia Ispanel Medimilla and that it report on the investigation and punishment of those responsible for the events that motivated the adoption of provisional measures, in particular on the threats denounced by Alberto Godínez and María García-Domingo.

9. Provisional Measures in the Giraldo Cardona Case - Colombia

The Court studied the eleventh and twelfth Reports of the State of Colombia and the Observations of the Commission to the eleventh report. On November 27, 1998, the Court emitted an Order in which it called upon the State of Colombia to communicate with the beneficiaries of the provisional measures in order to offer them proper protection that would be definitive and reliable. The Court also called upon the State to include in its next report, as an essential element to the duty to protect, information on the advances in the investigation of those responsible for the events that originated the provisional measures, on the punishment of those that turned out to be responsible and, if possible, to submit copies of the corresponding cases.

10. Provisional Measures in the Paniagua Morales *et al.* and Vásquez *et al.* Cases - Guatemala

On November 24, 1998, the Court deliberated on a request presented by the Inter-American Commission in which it considered that the provisional measures adopted by the Court could be lifted since the petitioners indicated that the security of the beneficiaries had improved. In this regard, on November 27, 1998, the Court decided to lift and consider as concluded the provisional measures and to file the case (**Appendix XXXI**).

H. SUBMISSION OF NEW CONTENTIOUS CASES

During 1998 four new cases were submitted to the Court.

1. Cesti Hurtado Case Against the State of Peru

The application in this case was submitted by the Commission on January 9, 1998, and refers to the alleged violation by the Peruvian State of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Judicial Guarantees), 11 (Right to Privacy), 17 (Rights of the Family), 21 (Right to Property), 25 (Right to Judicial Protection) and 51(2) of the American Convention, all in conjunction with Articles 1 and 2 of the same, as a result of the inclusion, detention, judgment and deprivation of liberty of the victim in a case despite the existence of a definitive habeas corpus judgment ordering the freedom of the same and finding his detention against his personal freedom. The Commission also requested the Court to call upon the Peruvian State to punish those responsible for the denounced violations and to free Mr. Cesti-Hurtado and to pay a compensation to him for the time he has been illegally detained and for the damage this has meant to his life and his well being.

2. Baena Ricardo *et al.* Case Against the State of Panama

The application in this case (No. 11.325) was presented by the Commission on January 16, 1998, and refers to the alleged violation of the Panamanian State of Articles 8 (Right to a Fair Trial), 9 (Freedom from Ex Post Facto Laws), 10 (Right to Compensation), 15 (Right of Assembly), 16 (Freedom of Association), and 25 (Judicial Protection), of the American Convention, all in conjunction with Articles 1 and 2 of the same, for events that occurred as of December 6, 1990. The events stem from the allegedly arbitrary firing of 270 public employees that had participated in a demonstration involving a labor dispute and the resulting case which allegedly violated their due process and judicial protection rights. The Commission also requested the Court to declare “that law 25 and the norm contained in Article 43 of the Political Constitution of Panama, which permits the retroactivity of laws for reasons of ‘public order’ or ‘social interest’ such as those that were applied in the present case, are contrary to the American Convention and therefore should be modified or derogated in conformity with Article 2 of the Convention.” The Commission also requested the Court to declare that Panama violated Article 33 and 50(2) of the Convention and that said State should re-establish the fired workers in exercise of their rights to provide reparation and compensation to the victims.

3. Mayagna Aguas Tingni (Sumo) Indigenous Community Case Against the State of Nicaragua

The application in this case was presented by the Commission on June 4, 1998, and refers to the alleged violation by the Nicaraguan State of Articles 1(Obligation to Respect Rights), 2 (Domestic Legal Effects), 21 (Right to Property) and 25 (Judicial Protection) of the American Convention, to the detriment of the members of the Mayagna Aguas Tingni (Sumo) Indigenous Community. The Case stems from the alleged lack of mapping and official recognition of the territory of said community. The Commission also requested the Court, based on Article 63(1) of the American Convention, order the reparation of the consequences of the violation of the rights established in its application.

4. Las Palmeras Case Against the State of Colombia

The application in this case was submitted by the Commission on July 6, 1998, and refers to the alleged extrajudicial execution and later denial of justice by the State of Colombia, against Artemio Pantoja-Ordóñez, Hernán Javier Cuarán-Muchavisoy, Julio Milcíades Cerón-Gómez, Edebraiz Cerón-Rojas, William Hamilton Cerón-Rojas and Hernán Lizcano-Jacanamejoy or Moisés Ojeda. The Inter-American Commission submitted the application in order for the Court to decide whether Colombia violated Articles 1(1) (Obligation to Respect Rights), 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Judicial Protection), of the American Convention, as well as Común Article 3 of the 1949 Geneva Convention, and to order that the damages incurred be remedied.

I. SUBMISSION OF NEW REQUESTS FOR THE ADOPTION OF PROVISIONAL MEASURES

1. Provisional Measures in the Paniagua Morales *et al.* And Vásquez *et al.* Cases - Guatemala

On February 5, 1998, the Inter-American Commission presented the Court a request for provisional measures in the Paniagua Morales *et al.* Case (in the reparations phase before the Court) and the Vásquez *et al.* Case (before the Commission). These measures were on behalf of the Vásquez-Solórzano family, two of whom testified before the Court on the merits of the Paniagua Morales *et al.* Case. On February 10, 1998, in response to the alleged harassment and threats suffered by members of said family, the President ordered the adoption of urgent measures in order to effectively ensure their physical and psychological integrity.

By Order of June 19, 1998, the Court ratified the Order of the President. During 1998, the Court received five reports from the Illustrious State of Guatemala regarding the status of its compliance with these measures.

On November 27, 1998, in consideration of the Commission's statements that the measures in this case could be lifted, the Court lifted and considered concluded the provisional measures ordered in this matter (**Appendix XXXI**).

2. Provisional Measures in the Clemente Teherán *et al.* Case - Colombia

On March 18, 1998, the Inter-American Commission presented the Court a request for the adoption of provisional measures in the Clemente Teherán Case *et al.* (No. 11.858), before the Commission. The Commission presented this request as a result of the alleged threats and harassment against a group of members of the Zenú indigenous community in San Andrés de Sotavento, by a group of paramilitaries acting under the auspices of large property owners and ranchers of the region and with the tolerance and the auspices of the public security forces.

On March 23, 1998, the President adopted urgent measures in order to protect the life and physical, psychological and moral integrity of the members of the named community and ordered that the full Court consider the Commission's request.

On June 19, 1998 (**Appendix XII**), the Court emitted an Order which called upon the State of Colombia to maintain the provisional measures on behalf of Rosember Clemente Teherán, Armando Mercado, Nilson Zurita, Edilberto Gaspar Rosario, Dorancel Ortiz, Leovigildo Castillo, Santiago Méndez, Zoila Riondo, Saul Lucas, José Guillermo Carmona, Celedonio Padilla, Eudo Mejía Montalvo, Marcelino Suárez Lazaro, Fabio Antonio Guevara, José Luis Mendoza, Misael Suárez Estrada, Ingilberto M. Pérez, Martín Florez, Jacinto Ortiz Quintero, Juan Antonio Almanza Pacheco, José Carpio Beltrán, Luis Felipe Alvarez Polo and Nilson Zurita (this last one when he returns to the protection of the indigenous community). The Court also ordered that the State should investigate the events that gave rise to the measures. Lastly, it called upon the State to present its reports on the measures adopted every two months and the Commission to present its observations with six weeks as of receipt of the reports.

3. Provisional Measures in the James *et al.* Case – Trinidad and Tobago

On May 22, 1998, the Inter-American Commission presented the Court a request for provisional measures in regards to five cases pending before it, relating to the death penalty imposed on five detained citizens in Trinidad and Tobago. Later, the Commission submitted three requests for

expansion of the adopted measures to the Court. The matters referred to in said provisional measures, as well as the lack of compliance with its treaty obligations by the State of Trinidad and Tobago, has been detailed by the Court in the section referring to the status of compliance with the judgments and orders of the Tribunal (*infra* II.K.7).

4. Provisional Measures in the *Bámaca Velásquez et al.* Case - Guatemala

On June 24, 1998, the Commission requested the adoption of provisional measures on behalf of Mr. Santiago Cabrera-López, who testified before the Court on the merits of the *Bámaca Velásquez* Case during the public hearing held by the Court at its seat on June 16, 1998. According to the Commission, in Mr. Cabrera López's case, there exists a situation of extreme gravity and urgency that require the adoption of protection measures in his favor.

On June 30, 1998, the President adopted urgent measures to effectively ensure the personal integrity of Mr. Cabrera-López, so the Court could examine the pertinence of the provisional measures requested by the Commission.

On August 29, 1998, (**Appendix XX**) the Court ratified the Order of the President and consequently, called upon the State of Guatemala to maintain the measures necessary to protect the life and personal integrity of Mr. Cabrera-López. The Court also, in accordance with the August 24, 1998, request of the Commission, expanded the provisional measures on behalf of seven family members of Mr. Cabrera-López.

J. STATUS OF THE CASES BEFORE THE COURT

1. Contentious Cases

Name of the Case	State	Present Stage
Neira Alegría <i>et al.</i> Case	Peru	Supervision of Compliance
Caballero Delgado and Santana Case	Colombia	Supervision of Compliance
El Amparo Case	Venezuela	Supervision of Compliance
Garrido and Baigorria Case	Argentina	Supervision of Compliance
Castillo Páez Case	Peru.	Supervision of Compliance
Loayza Tamayo Case	Peru	Supervision of Compliance
Paniagua Morales <i>et al.</i> Case	Guatemala	Reparations
Blake Case	Guatemala	Reparations
Suárez Rosero Case	Ecuador	Reparations
Benavides Cevallos Case	Ecuador	Supervision of Compliance
Cantoral Benavides Case	Peru	Merits
Durand and Ugarte Case	Peru	Preliminary Objections
<i>Bámaca Velásquez</i> Case	Guatemala	Merits
Villagrán Morales <i>et al.</i> Case	Guatemala	Merits
Castillo Petruzzi <i>et al.</i> Case	Peru	Merits
Cesti Hurtado Case	Peru	Preliminary Objections
Baena Ricardo <i>et al.</i> Case	Panama	Preliminary Objections

Mayagna Awas Tingni Indigenous Community Case	Nicaragua	Preliminary Objections
Las Palmeras Case	Colombia	Preliminary Objections

2. Provisional Measures

Name	State	Current Status
Alvarez <i>et al.</i>	Colombia	Active
Bámaca Velásquez	Guatemala	Active
Blake	Guatemala	Active
Caballero Delgado and Santana	Colombia	Active
Carpio Nicolle	Guatemala	Active
Colotenango	Guatemala	Active
Cesti Hurtado	Peru	Active
Giraldo Cardona	Colombia	Active
Clemente Teherán <i>et al.</i>	Colombia	Active
James <i>et al.</i>	Trinidad and Tobago	Active

3. Advisory Opinions

Request	Requesting State	Present Stage
OC-16	Mexico	Oral proceedings have been concluded. The last of the written proceedings is still pendings.

K. STATUS OF COMPLIANCE WITH THE JUDGMENTS OF THE COURT

1. Gangaram Panday Case

After supervising the compliance of its January 21, 1994, Judgment during several years, the Court, on November 27, 1998, emitted an Order (**Appendix XXX**) in which stated that the State of Suriname had satisfactorily complied with what was ordered in said judgment, and as a result, closed the case.

2. Genie Lacayo Case

After considering that the documentation presented by the State of Nicaragua regarding compliance with the January 29, 1997, Judgment of the Court demonstrated that the State had complied with that established in Article 68(1) of the Convention, the Court, by order of August 29, 1998, (**Appendix XXIV**) closed the Genie Lacayo Case. Article 68(1) of the Convention imposes a duty to the States Parties of the Convention to comply with the judgments passed down by the Court.

The Judge Antônio A. Cançado Trindade presented the Court his Separate Opinion, which accompanies the mentioned order.

3. El Amparo Case

The time period given to comply with the September 14, 1996, Judgment expired on March 20, 1997. During 1998, the Court studied several briefs presented by the State and the next of kin of the victims regarding the status of compliance with the above-mentioned Judgment.

Consideration by the Court on the status of compliance in said Judgment is pending for the XLIII Regular Session, which will be held in January of 1999. The results of these considerations will opportunely be communicated to the General Assembly of the Organization.

4. Caballero Delgado and Santana Case

On January 29, 1997, the Court handed down a Judgment on the reparations in this case, in which it ordered the State of Colombia to comply with that ordered in the Judgment within a period of six months. During 1998, the Court studied several briefs presented by the State and the next of kin of the victims in the proceedings regarding the status of compliance with the above-mentioned Judgment.

On September 30, 1998, the State presented a brief in which it stated that it was not possible to create the trust funds ordered by the Court due to practical internal order obstacles and requested the Court to modify its reparations Judgment. On December 22, 1998, the Court requested that the State clarify, no later than January 15, 1999, some of the statements contained in its request. For this reason, consideration by the Court on the status of compliance with said Judgment is pending for the XLIII Regular Session, which will be held in January of 1999. The results of these considerations will opportunely be communicated to the General Assembly of the Organization.

5. Neira Alegría *et al.* Case

On September 19, 1996, the Court handed down a Judgment on the reparations. The time period given for compliance expired on March 19, 1997.

On July 20, 1998, the State submitted documentation referring to the payment of the reparations to the beneficiaries in the present case and requested the case be closed.

On October 29, 1998, the State informed the Court it had given the principal and the interest to the beneficiaries of Mr. Zenteno-Escobar, and that in accordance with the Court Order of August 29, 1998, it proceeded to give the corresponding information so that the beneficiaries of Mr. Neira-Alegría could claim payment of the corresponding reparation. On August 30, 1998, the representatives of the next of kin of the victims informed the Court that the family members of the Zenteno-Escobar brothers and those of Mr. Neira-Alegría had received the corresponding reparation. However, they indicated that the State obligation to make every effort to locate and identify the remains of the victims and to deliver them to their next of kin, is still pending.

On December 9, 1998, the Court ordered the State to present, no later than January 4, 1999, an updated report on the status of compliance with Resolutive Point four of the Reparations Judgment. In this Resolutive Point, the Tribunal decided that “the State of Peru is obliged to do all in its power to locate and identify the remains of the victims and deliver them to their next of kin”. For this reason, consideration by the Court on the status of compliance with said Judgment is pending for the XLIII Regular Session, which will be held in January of 1999. The results of these considerations will be opportunely communicated to the General Assembly of the Organization.

6. Benavides Cevallos Case

On June 12, 1998, the State of Ecuador notified the Court that, on that same day, the President of the Republic had delivered a check for US\$ 1,000,000.00 (a million United States dollars) to the parents of Consuelo Benavides-Cevallos.

On June 19, 1998, the Court, presided over by its Vice President, Judge Antônio A. Cançado Trindade, since the President of the Court, Judge Hernán Salgado-Pesantes, in accordance with Article 4(3) of the Rules of Procedure, ceded the Presidency in view of his Ecuadorian nationality, handed down a Judgment on the merits and reparations in the case (**Appendix XVII**). The Judgment accepted the acquiescence of Ecuador to the allegations made by the Commission, took into account the State’s recognition of international responsibility, and declared that in accordance with the terms of said recognition that the State violated the rights protected in Articles 3, 4, 5, 7, 8 and 25 of the Convention, all in conjunction with Article 1(1) of the same, to the detriment to the Professor, Consuelo Benavides-Cevallos. The Court also approved the settlement reached between the State and the next of kin of the victim in regards to the reparations and ordered the State to continue the investigations to punish all of those responsible for the violations of the human rights mentioned in the Judgment.

On September 21, 1998, the Secretary requested the Commission to present its observations to State document 4-8-101/98, in which it informed that it had delivered the amount indicated in the friendly settlement made in the case and the Judgment passed by the Court, to the parents of the victim. The Secretary also requested that the Commission and the State present any new information on compliance with the Judgment.

On October 30, 1998, the Commission communicated that it would send the Court the observations and information from the interested parties as soon as they received them. To date, the information requested from the Commission and the State has not been received.

7. Provisional Measures in the James *et al.* Case – Trinidad and Tobago

On May 22, 1998, the Inter-American Commission presented a request to the Court for the adoption of provisional measures on behalf of five persons who are subject to the jurisdiction of the State of Trinidad and Tobago (Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel). These cases are under the consideration of the Inter-American Commission.

On June 14, 1998 (**Appendix IX**), the Court ratified the May 27, 1998, Order of the President, in which he had adopted urgent measures in order to preserve the life of the above-mentioned persons, since their execution would render purposeless any decision issued by the Tribunal on their.

Later, the Commission presented three requests for the expansion of the measures adopted in this case. By Orders of June 29, July 13, and July 22, 1998, issued on behalf of Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, respectively, the President called upon the State to adopt the measures necessary to preserve the life and personal integrity of said persons.

The Court summoned the State of Trinidad and Tobago and the Inter-American Commission to a public hearing at its seat on August 28, 1998. On August 11 and 27, 1998, the State of Trinidad and Tobago informed the Court that it had to decline the summons, and could not accept any responsibility for the consequences which ensue from the failure of the Inter-American Commission to organize its proceedings so as to ensure that cases submitted to it by those under sentence of death are processed, heard and determined within the time periods required under the municipal law of Trinidad and Tobago.

On August 19, 1998, the President of the Court sent a note to the Prime Minister of Trinidad and Tobago in which he communicated the Tribunal's concern in regard to the State's declination of the Court's summons to appear at the public hearing (**Appendix XVIII**).

On August 28, 1998, the Court held at its seat the public hearing it had summoned. After hearing the observations of the Commission, the Court, issued an Order on August 29, 1998, (**Appendix XXII**) by which it ratified the Orders of its President of June 29, July 13, and July 22, 1998, and requested that Trinidad and Tobago take all of the measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, so as not to hinder the processing of their cases before the Inter-American system. Said Order was communicated to the State.

On September 1, 1998, the State informed that in the future it will not consult with the Court or the Commission any further in these matters.

As of the date of drafting the present Report, the State has not presented any of the periodic reports that were ordered by the Court in its August 29, 1998, Order, despite constant requests by the Tribunal regarding this matter.⁷

⁷ On February 5, 1999, after the present Report was elaborated, Trinidad and Tobago requested the Court to confirm the suspension of the measures adopted in favor of Mr. Anthony Briggs, according to Report No. 64/98, released by the Inter American Commission on November 3, 1998. On this matter, the State announced that it had submitted this Report to the Committee on the recommendation of the Commission on the Power of Pardon, affirming that "the Committee will consider at its next meeting the recommendation of the Commission concerning compensation and consideration of the early release or commutation of sentence in respect of Anthony Briggs."

The Court has verified the refusal of the State to recognize the obligatory nature of the Court's decisions in this matter, and in particular, its lack of appearance before the Tribunal despite being duly summoned, and the lack of compliance with the Orders regarding the periodic reports.

Therefore, in accordance with Article 65 of the American Convention, the Court informs the General Assembly of the Organization of American States that the Republic of Trinidad and Tobago, State Party to the American Convention on Human Rights, has not complied with its decision regarding the provisional measures adopted in the *James et al.* Case, and as a result requests that the General Assembly urge that the Republic of Trinidad and Tobago comply with the Orders of the Court.

The Court also wishes to state in this Report its concern regarding Trinidad and Tobago's denunciation of the American Convention which was notified to the General Secretariat on May 26, 1998. This decision, which has no precedents in the history of the Inter-American system for the protection of human rights, has no effect on the compliance of the provisional measures in accordance with Article 78(2) of the American Convention, which states that:

...Such a denunciation shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations and that has been taken by that state prior to the effective date of denunciation.

Further, the Court wishes to state in this Report that, even when an international treaty are given the right of denunciation, in dealing with human rights treaties, due to their special nature, a denunciation affects the respective international or regional system for the protection of human rights as a whole. In this particular instance, the aforesaid justifies an action on the part of the General Assembly of the Organization to motivate Trinidad and Tobago's reconsideration of its decision.

III. OTHER ACTIVITIES OF THE COURT

A. AGREEMENT FOR THE ADMINISTRATIVE INDEPENDENCE OF THE SECRETARIAT OF THE COURT SIGNED WITH THE GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES

As of January 1, 1998, the Court drafted the "Agreement Between the General Secretariat of the Organization of American States and the Inter-American Court of Human Rights, concerning the Administrative Functioning of the Court" (**Appendix I**).

Among other things, the agreement establishes the rules concern the mechanisms regarding the deposit of resources that the General Assembly of the Organization designates to the activities of the Court, conducting audits, the appointing of personnel of the Court, the extension of the jurisdiction of the Administrative Tribunal to the personnel of the Secretariat of the Court, and the participation of the personnel of the Secretariat to the Retirement and Pension Plan and to the Provisional Fund of the Organization.

Also, in accordance with Article VIII of the Agreement, the General Secretariat of the Organization is freed of all civil responsibility for whatever action or omission the Court, its Judges, or Secretary or any of the members of its personnel, may take in regards to the management of the funds of the Court and to all aspects of labor relations and social security referring to the personnel of the Court.

In compliance with the dispositions of the Agreement, the Tribunal has taken a series of administrative measures for audits and for the personnel, and these have been opportunely notified to the Organization and they are detailed in the section reserved for administrative matters (*infra* IV.).

B. SIGNING OF THE COOPERATION AGREEMENT WITH THE UNITED NATIONS DEVELOPMENT PROGRAM (UNDP)

On March 3, 1998, the Inter-American Court, through its President, Judge Hernán Salgado-Pesantes, and the United Nations Development Program (UNDP), represented by Mr. Hans D. Kurz, resident Representative in Costa Rica, signed a Cooperation Agreement with the purpose of carrying out a program for the implementation of a joint program for a presence on the Internet. This joint presence consists of a technical level cooperation where the Court participates as the usufructuary of an electronic page that has been mounted and equipped and will continue to be maintained by the UNDP under the supervision of the Court. The Court will establish a Human Rights Electronic Information Center that would allow the public access through said system. With this initiative, the Court already has Internet and can maintain links with other institutions specialized in the field of human rights protection. The Court's Webpage is already available to the public. The http address of the Inter-American Court is: corteidh-oea.nu.or.cr/ci.

C. PRESENTATION OF THE ANNUAL REPORT OF THE COURT TO THE COMMITTEE ON JURIDICAL AND POLITICAL MATTERS OF THE PERMANENT COUNCIL OF THE OAS AND OF THE PROPOSED BUDGET OF THE COURT TO THE COMMITTEE ON ADMINISTRATIVE AND BUDGETARY MATTERS

From March 29 to April 9, 1998, Judges Hernán Salgado-Pesantes, President and Judge Antônio A. Cançado Trindade, Vice President, accompanied by the Secretary of the Tribunal, Manuel E. Ventura-Robles, visited the headquarters of the OAS in Washington, D.C., in order to present the Committee of Juridical and Political Matters of the Permanent Council of the OAS with the 1997 Annual Report of the Court, and the Committee on Administrative and Budgetary Matters with the proposed budget of the Court for 1999.

On April 2, 1998, the Committee of Juridical and Political Matters, received the representatives of the Court and presented its recommendations to the Annual Report of the Court. These recommendations were made by the Permanent Council of the OAS and were approved by the General Assembly in the terms indicated below (*infra* III.D).

During this visit to Washington, D.C. the above-mentioned Judges and Secretary of the Inter-American Court were received on April 6, 1998, by the Committee on Administrative and Budgetary Matters, during which the President of the Court explained the proposed budget for 1999. He also answered a number of questions by the representatives of the Member States in regards to the

budget and they also considered that the visit had been very important for their full understanding of the functioning and needs of the Tribunal.

On March 30, 1998, this same Court delegation participated as special guests to the deliberations of the United Nations Preparatory Commission for the creation of an International Criminal Tribunal. The meeting was held at the United Nations headquarters in New York City, United States of America. The visit was the result of an invitation by the President of that Preparatory Commission.

D. XXVIII REGULAR SESSION OF THE GENERAL ASSEMBLY OF THE OAS

From June 1 - June 3, 1998, the General Assembly of the OAS held its 28th Regular Session in Caracas, Venezuela. The Inter-American Court was represented by its President, Judge Hernán Salgado-Pesantes, by its Vice President, Judge Antônio A. Cançado, and by Judge Alirio Abreu-Burelli. Also in attendance was the Secretary of the Court, Manuel E. Ventura Robles.

By Order AG/RES. 1605 (XXVIII-0/98), the General Assembly approved the 1997 Annual Report of the Tribunal. In said Order, the General Assembly decided:

1. To receive and transmit to the Inter-American Court of Human Rights the observations and recommendations of the Permanent Council of the Organization on the Annual Report.
2. To urge those Member States of the OAS that have not yet done so, to give special and quick consideration to the signing, ratification and adherence, in accordance with the case and in conformity with their constitutional and legal procedures, to the American Convention on Human Rights “Pact of San José, Costa Rica” and that they accept, in accordance with the case, the contentious jurisdiction of the Inter-American Court of Human Rights.
3. To give the Inter-American Court of Human Rights a proper level of finance and support necessary to continue complying with the high functions conferred on it by the American Convention on Human Rights.
4. To reiterate its gratitude to the European Union for the contribution it has made to the Court in order to carry out the project named “Assistance to the Inter-American Court” during its third phase.
5. To thank the Danish Centre for Human Rights for the collaboration it has given to the Court through its cooperation programs and for having financed the services of an attorney at the Secretariat of the Court.
6. To express recognition to the Inter-American Court of Human Rights for its work during the period comprised of this report and to urge that it continue with its important functions.

As a result of a recent modification of the operative rules of the General Assembly of the OAS, the budget of the Court for 1999 was not discussed during the XXVIII General Assembly, but rather it was proposed that it be discussed and approved during a Special Session that would be scheduled for November, 1998 (*Infra* III.N).

E. MEETING WITH THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS IN 1998 TO COMPLY WITH GENERAL ASSEMBLY RESOLUTIONS AG/RES. 1041 (XX-0/90) AND AG/RES. 1330 (XXXV-0/95)

On October 12, 1998, the annual Inter-American Court of Human Rights/Commission on Human Rights meeting was held at the seat of the Commission in Washington, D.C., in order to comply with Order AG/RES. 1041 (XX-0/90) with the purpose of coordinating the functions both organisms conduct, in conformity with Order AG/RES. 1330 (XXXV-0/95), that states:

1. To recommend that the Inter-American Court of Human Rights include in a detailed manner in its annual report, in addition to not only the conclusions of the periodic meetings that it holds with the Inter-American Commission on Human Rights, but also the results of these meetings.

During this meeting, the following were present for the Court: Judge Hernán-Salgado Pesantes, President; Judge Antônio A. Cançado Trindade, Vice President; Oliver Jackman; Alirio Abreu-Burelli; Sergio García-Ramírez; and Carlos Vicente de Roux-Rengifo. Present for the Inter-American Commission were: Carlos Ayala Corao, President; Robert K. Goldman, First Vice President; Claudio Grossman; Jean Joseph Exumé, Helio Bicudo; and Henry Forde. Also present were the Secretaries of the Court and of the Commission.

During this annual meeting, the following agreements were made:

1. To make the necessary motions before the Organization to continue oral presentation of the Annual Reports of the Court and the Commission during the General Assembly of the OAS.
2. To give preeminence to the role of the victim in the inter-American system, primarily before the Court. It was agreed that the Court would implement a possible reform to its Rules of Procedure so that the petitioners could present autonomous briefs, not only in the reparations phase, but in all phases of the proceedings before the Court.

To coordinate efforts to determine the identification and addresses of the petitioners, victims and next of kin, in order to facilitate the proceedings of the reparations phase before the Court.

To improve the follow-up and control process of the provisional measures ordered by the Court.

5. To analyze the possible effects of the denunciation of the American Convention by the States Parties that opt for that decision.
6. To cooperate with the supervision of compliance with the judgments handed down by the Court.
7. To coordinate procedural and logistical aspects regarding the presentation of documentary, expert and testimonial evidence before the Court.
8. In a joint institutional effort to the corresponding authorities of the OAS, to insist on the improvement of the budget of each of the organism and that it avoid future budget cuts. A joint note was sent to the General Secretary regarding this point.

F. PRESENTATION OF THE *LIBER AMICORUM* EDITED IN HONOR OF DR. HÉCTOR FIX-ZAMUDIO

On October 13, 1998, at the headquarters of the OAS in Washington, D.C., and in the presence of Ambassadors of the Member States of the Organization, functionaries of the same and special guests, the Court presented the *Liber Amicorum* edited in tribute to Dr. Héctor Fix-Zamudio, in gratitude for the many benefits the Tribunal reaped during his participation on the Inter-American Court of Human Rights for two periods, from 1986 to 1997. During this time, Dr. Fix-Zamudio served as President of the Court on four occasions. This publication was possible thanks to the collaboration of the European Union which facilitated the totality of the costs of production and made possible the editing and publication of this important juridical work, which counts on the collaboration of many distinguished authors. During this tribute, the President of the Court, Judge Hernán Salgado-Pesantes, gave a speech on behalf of the Tribunal, thanking Judge Fix-Zamudio (**Appendix XXXII**).

G. SIGNING OF THE COOPERATION AGREEMENT WITH THE SUPREME COURT OF VENEZUELA

On October 13, 1998, in Washington, D.C., an Institutional Cooperation Agreement was signed between the Inter-American Court of Human Rights, represented by its President, Judge Hernán Salgado-Pesantes, and the Supreme Court of the Republic of Venezuela, represented by its President, Justice Cecilia Sosa-Gómez. The purpose of the Agreement is to contribute to the design and execution of specific actions destined to raise the quality and efficiency of the administration of justice systems and to contribute to the guarantee of peace and justice on the entire American continent. It was also created to develop reciprocal assistance in judicial and professional training, to provide an exchange of fundamental instruments for the promotion and defense of Human Rights as well as relevant information on judicial activity in the countries of the American region, and to provide a permanent exchange of information -in the administrative as well as technological fields- that would be relevant for the judicial activities of the American region.

H. PARTICIPATION OF THE COURT IN THE ACTIVITIES OF THE INSTALLATION OF THE NEW EUROPEAN COURT OF HUMAN RIGHTS

On November 3, 1998, by invitation of the European Court, the President of the Inter-American Court, Judge Hernán Salgado-Pesantes, its Vice President, Judge Antônio A. Cançado Trindade, and the Secretary, Manuel E. Ventura-Robles, participated in the official installation of the new European Court of Human Rights. In conformity with the entrance into effect of Protocol No. 11 of the European Convention of Human Rights, as of November 1, 1998, the European Commission was eliminated, leaving the new European Court as the sole organ for the regional protection of human rights. As part of those activities, on November 2, 1998, the representatives of the Inter-American Court participated in a symposium held in the Human Rights Building of the European Council. It is worth noting that the Inter-American Court and the European Court have always maintained institutional relations that are renewed with reciprocal visits to exchange information and experiences accumulated during their work. This point was emphasized by the President of the new European Tribunal, who during his inaugural speech, expressed the importance of continuing the ties of cooperation between both organs.

I. VISIT OF THE PRESIDENT, THE VICE PRESIDENT, AND THE SECRETARY TO THE SEAT OF THE EUROPEAN UNION

On November 5 and 6, 1998, the President of the Court, Judge Hernán Salgado-Pesantes, its Vice President, Judge Antônio A. Cançado Trindade, and the Secretary, Manuel E. Ventura-Robles, visited the seat of the European Union in Brussels, Belgium. During this time, they met with high functionaries of the European Union in order to strengthen institutional ties and to follow-up on the approval process of the project named “Assistance to the Inter-American Court of Human Rights-Phase IV.”

J. SIGNING OF THE COOPERATION AGREEMENT WITH THE UNIVERSIDAD CARLOS III OF MADRID

On November 9, 1998, the President and the Secretary of the Court participated in the signing ceremony of an Institutional Cooperation Agreement between the Inter-American Court and the University Carlos III of Madrid. Both institutions were represented at the signing of the agreement by Judge Hernán Salgado-Pesantes, President of the Court and Dr. Gregorio Peces-Barba, Rector of the University Carlos III. This Cooperation Agreement was subscribed in order to contribute to the reciprocal training of the members of the personnel of the Court and of students of the University Carlos III and with a view of disseminating the results of the work related to human rights and to strengthen the already existing relations between both institutions.

K. PROJECT “ASSISTANCE TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS – PHASE III” WITH THE EUROPEAN UNION

On June 13, 1997, in San José, Costa Rica, the President of the Court, Judge Héctor Fix-Zamudio and the Ambassador in Chief of the Delegation of the European Union in Costa Rica, Mr. Dieter König, signed an agreement for the third phase of the project “Support for the Inter-American Court of Human Rights” for the amount of ECUS 300.000,00. This project, financed by the European Union, has as its fundamental objective the development of actions, which will strengthen and modernize the inter-American system for the protection of human rights through the support of the work done by the Inter-American Court. The project, which began in 1994, has successfully completed its first two phases, demonstrated by the publications on the jurisprudence and documents relevant to the Tribunal and the operative automatization and the improvement of its library.

This third phase was divided into the Library and Publications components. In Publications, it attempted to consolidate the current system of dissemination by an editorial focus comprised of the promotion, production, distribution and administration of the publications of the Court. By achieving these goals, the Court would comply with its Rules of Procedure, develop the area of promotion and complement the graphic production team and other teams of the office.

In this third phase, 27 publications on contentious cases and advisory opinions of great interest will be edited and printed., not only for the States that make up the inter-American system, but also for university professors, students, investigators and public in general. This phase also hopes to reprint the first commemorative book of the Court which has been out of print for more than five years due

to the high demand it had; the Book honoring the Installation of the Court; and an updated reprint of the compendium of provisional measures in Spanish and English. This constitutes 3 more publications, for a total of 30, for the third phase of the project. It is hoped that this phase will end in the month of June 1999.

Within the cooperation project of the European Union, the *liber amicorum* in honor of Dr. Héctor Fix-Zamudio, was also published. More on this publication is detailed in the corresponding section (*supra* III.F).

L. MEETING WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

On June 15, 1998, the Court held a private work session with three members of the African Commission on Human and People's Rights, its Secretary and a representative of the Organization of African Unity, to deal with subjects they have in common regarding the protection of human rights in the American and African continents. Representing the African Commission were Ms. Vera Valentina de Melo Duarte-Martins, Vice President; Mr. Ibrahim Ali Badawi El-Sheik, member; Ms. Julienne Ondziel-Gnelenga, member and Mr. Germain Baricako, Secretary. The Organization of African Unity was represented by Djeneba Diarra, attorney.

M. COOPERATION AGREEMENT WITH THE DANISH CENTRE FOR HUMAN RIGHTS

On September 23, 1998, the Court, represented by its Secretary, Manuel E. Ventura-Robles, and the Danish Centre for Human Rights, represented by its Deputy Director, Birgit Lindsnæs, signed a cooperation agreement in the field of the protection and promotion of human rights.

In conformity with the dispositions of the mentioned agreement, the Danish Centre for Human Rights provided the necessary funds to contract an attorney for the Legal Department of the Secretariat, as well as to purchase equipment and bibliographic material for its work during the last three months of 1998.

For its part, the Inter-American Court promised to authorize that a functionary of the Secretariat travel to Africa, in order to determine the areas that the Court and the African Commission on Human and People's Rights could continue their institutional cooperation, particularly in view of the imminent installation of the African Court of Human Rights. In conformity with this disposition, from October 24 through November 2, 1998, Víctor H. Madrigal-Borloz, Interim Director of the Legal Department of the Court, traveled to the city of Banjul, Gambia, seat of the African Commission, and attended the XXV Regular Session of the Commission.

N. XXV SPECIAL SESSION OF THE GENERAL ASSEMBLY OF THE OAS

On November 12 and 13, 1998, the President and the Secretary of the Court traveled to Washington, D.C. to participate in the Special Assembly of the OAS. This Special Session was convoked only to deal with the approval of the 1999 Organization budget. This assembly approved the budget of the Court for 1999.

O. PARTICIPATION IN THE “FIFTIETH ANNIVERSARY OF INTERNATIONAL HUMAN RIGHTS DOCUMENTS”, SEMINAR IN MEXICO D.F.

From November 30 through December 2, 1998, the President of the Inter-American Court, Judge Hernán Salgado-Pesantes, its Vice President, Antônio A. Cançado Trindade, Judges Alirio Abreu-Burelli and Sergio García-Ramírez and the Secretary, Manuel E. Ventura-Robles, participated in the International Seminar “Fiftieth Anniversary of International Human Rights Documents”, held in Mexico D.F. and organized by the Juridical Investigations Institute of the National Autonomous University of Mexico, and co-sponsored by the Senate of the Republic and the Juridical Advisor of the Federal Executive. The President of the Court, participated in a lecture on the Inter-American Court of Human Rights; the Vice President with an exposition on the Universal Declaration of Human Rights; Judge Abreu-Burelli talked on the procedures before the Inter-American Court of Human Rights; Judge García-Ramírez participated with a talk on Mexico and its acceptance of the jurisdiction of the Inter-American Court of Human Rights, and the Secretary of the Court talked on the American Convention on Human Rights.

P. PARTICIPATION IN THE MEETING OF PRESIDENTS OF THE MEMBER STATES OF MERCOSUR

The Inter-American Court was represented by its Vice President, Judge Antônio A. Cançado Trindade, in a Special Session of the Presidents of the Member States associated with MERCOSUR, in commemoration of the 50th Anniversary of the Universal Declaration of Human Rights. The celebration was held on December 9, 1998, in the Itamaratí Palace in Río de Janeiro. During this meeting the following Presidents participated: Carlos Saúl Menem (Argentina), Fernando Henrique Cardoso (Brazil), Raúl Cubas-Grau (Paraguay), Julio María Sanguinetti (Uruguay), Hugo Banzer-Suárez (Bolivia), and Eduardo Frei Ruiz-Tagle (Chile). On this occasion, the President of Brazil, Mr. Fernando Henrique Cardoso, announced the recognition of the contentious jurisdiction of the Inter-American Court, by Brazil. The meeting adopted the Proclamation of Río de Janeiro, in commemoration of the 50 years of the Universal Declaration of Human Rights, and was signed by the above-mentioned Presidents.

Q. ACADEMIC ACTIVITIES OF THE JUDGES OF THE COURT

On June 4, 1998, the President of the Inter-American Court, Judge Hernán-Salgado-Pesantes, its Vice President, Antônio A. Cançado Trindade, Judge Alirio Abreu-Burelli and the Secretary, Manuel E. Ventura-Robles, were received by the full Supreme Court of the Republic of Venezuela where they offered various talks on the inter-American system for the protection of human rights and the work of the Inter-American Court. During this opportunity, the President of the Inter-American Court, Judge Hernán-Salgado-Pesantes was decorated with the “Barra de Honor de la Corte Suprema de Justicia de Venezuela” (Badge of Honor of the Supreme Court of Venezuela). That same day, they were received in the Attorney General of the Nation’s office, at the invitation of the Attorney General, where they gave a conference to the functionaries of this office on the nature and function of Inter-American Court of Human Rights.

The cycle of conferences organized in San José, Costa Rica by the Ministry of Foreign Relations of the Republic of Costa Rica to commemorate the 50th anniversary of the Universal Declaration of Human Rights, counted on the participation of the President and Vice President of the Court, Judges Hernán Salgado-Pesantes and Antônio A. Cançado Trindade, respectively. Within this cycle, on November 17, Judge Cançado Trindade held an inaugural lecture on "The International Protection of Economic, Social and Cultural Rights." Following this, on November 24, Judge Salgado-Pesantes participated as a panelist in a round table on "The Reforms to the Inter-American System for the Promotion and Protection of Human Rights." Previously, on August 24, Judge Cançado Trindade held a conference on "The Future of the International Protection of Human Rights" in the "Manuel María Peralta" Foreign Service Institute (Costa Rican Diplomatic Academy).

From May 4 - 22, 1998, the President, Judge Hernán Salgado-Pesantes gave a course on "Latin American Constitutionalism and the Protection of Human Rights", at the Faculty of Legal Sciences of the University of Paris X-Nanterre. From August 3 - 7, of the same year, he participated as a professor of the XXV Annual Course of the Inter-American Juridical Committee on the "Challenges of the Inter-American System on the Threshold of the XXI Century", in Río de Janeiro, Brazil. During this activity he talked on the subject of "The Regional Protection of Human Rights of the Inter-American Court. Retrospective and Future".

During the months of February, March and April 1998, Judge Antônio A. Cançado Trindade taught two graduate courses (International Law of Human Rights and Inter-American System of Human Rights Protection), as Tinker Visiting Professor at Columbia University in New York, United States. During this period, he participated in three Seminars at Columbia University in New York: the Brazil Seminar (17.04.1998), in which he presented his latest book "*The International Protection of Human Rights and Brazil: The First Five Decades (1948-1997)*" (Brasilia University Press, 1998); the Peace Seminar (21.04.1998), in which he spoke on "The Experience of Latino American Countries on Peaceful Settlement of International Disputes"; and the Seminar on "The Future of the Inter-American and European Systems of Human Rights Protection" (01.04.1998).

Judge Antônio A. Cançado Trindade taught two courses, totaling thirteen lectures, on the topics "Values and Significance of the Universal Declaration of Human Rights at the World and Regional Levels", and "The Inter-American System of Protection of Human Rights (1948-1998): The First Fifty Years", at the XXIX Study Session of the International Institute of Human Rights, held in Strasbourg, France, from 13 to 17 July 1998.

During the year of 1998 (May to December), Judge Antônio A. Cançado Trindade taught two graduate courses (Public International Law and International Law of Human Rights) at the University of Brasília; moreover, he taught a course of Public International Law at the Rio-Branco Diplomatic Institute, in Brasília, Brazil.

Judge Antônio A. Cançado Trindade gave the inaugural lecture, titled "Memorial for a New Mentality as to the Protection of Human Rights at International and National Levels", at the III National Conference on Human Rights, in the Auditorium of the National Congress of Brazil, in Brasilia, on 13 May 1998. Furthermore, he gave the inaugural lecture of the Seminar on Human Rights for judges, in Belo Horizonte (14.05.1998); he gave, moreover, the inaugural lecture of the Human Rights Course for *Procuradores de la República*, in Brasilia (20.08.1998); and he gave, in addition, two

other lectures in Human Rights Seminars for *Procuradores de la República*, in Porto Alegre (25.09.1998), and again in Brasília (10.12.1998).

Judge Antônio A. Cançado Trindade gave a lecture on "Comparative Analysis of the International Instruments of Human Rights Protection at Global and Regional Levels" at the XVI Interdisciplinary Course of the Inter-American Institute of Human Rights (IIDH), in San José of Costa Rica, on 16.07.1998. On the occasion, he received from the IIDH a diploma of recognition for more than a decade of participation as lecturer at the annual sessions of the mentioned Interdisciplinary Course of the IIDH, from its creation until nowadays.

Judge Antônio A. Cançado Trindade taught a course of five lectures on the theme "The Future of the International Protection of Human Rights / L'avenir de la protection internationale des droits de l'homme", from 28 September to 01 October 1998, at the XXVII Session of the External Program of the Hague Academy of International Law, held in Montevideo, Uruguay.

Judge Antônio A. Cançado Trindade intervened, on 03 April 1998, at the 92nd. Annual Meeting of the American Society of International Law, in Washington D.C., Estados Unidos, as speaker on the theme "Recent Developments in the Case-Law of the Inter-American Court of Human Rights". He intervened, furthermore, on 10 September 1998, in the International Seminar on "Human Rights in the XXI Century", organized by the Ministry of External Relations of Brazil, in Rio de Janeiro, Brazil, as speaker on the theme "The Consolidation of the Procedural Capacity of the Individuals in the Evolution of the International Protection of Human Rights: Present State and Perspectives".

At a ceremony held on 15.12.1998 in the Auditorium of the Ministry of Justice in Brasília, Brazil, Judge Antônio A. Cançado Trindade received the Prize "*World Citizenship 1998*", awarded by a national jury of non-governmental organizations and civil society entities, for his "dedicated endeavors to transform the defense of human rights and of citizenship into an ideal of life and of social behavior".

At the XX Congress of the *Instituto Hispano-Luso-Americano y Filipino de Derecho Internacional* (IHLADI), held in Manila, the Philippines, Judge Antônio A. Cançado Trindade was elected member of the Board of Directors of the IHLADI during the period 1998-2000.

From December 1 - 3, 1998, Judge Máximo Pacheco-Gómez, participated in the Seminar "Criminal Jurisdiction for Crimes Against Humanity", held in the College of Law of the University of Chile. During this activity he participated with the topic "The Inter-American Court's Perspective", during which the Vice Minister of Foreign Relations of the Republic of Chile, the Dean of the College of Law, 20 professors and 300 students, were present.

Judge Oliver Jackman participated as a member of the Commission for the revision of the Constitution of Barbados.

Judge Alirio Abreu-Burelli participated in courses and seminars on human rights organized by the Consejo de la Judicatura de Venezuela (Juridicary Council of Venezuela) and run by members of the Judiciary of the States of Mérida, Anzoátegui, Bolívar and Distrito Federal. He also took part in similar activities under the direction of the Supreme Court, at its seat, and in some cities in the

interior of the country. He gave a lecture on the Commemorative Act of the 50th Anniversary of the Universal Declaration of Human Rights held in the Municipality of Barquisimeto, Lara State and in the same city he inaugurated the human rights Chair in the University of Fermín Toro; the Chair carries the name of Judge Abreu-Burelli. He continues his activities as President of the “Primer Justicia” (Justice First) Association, a non-governmental organization, working for an effective guarantee to the access of justice and citizen participation in the reform of the Judiciary, while strengthening alternative dispute resolution mechanisms. The Justice First Association has presented the legislative and judicial organs concrete proposals that actually analyze the modernization programs of the Supreme Court and the Juridical Council. Also, the Justice First Civil Association runs a wide-spread program in primary schools, aimed at the formation of cultural and ethical values under the name of “Educando para la Justicia” (Educating for Justice), that imparts programs to approximately three hundred schools.

During 1998, Judge García-Ramírez participated as a conference member or lecturer at numerous academic meetings organized by diverse Mexican institutions, among these, the Secretariat of Foreign Relations, the National Commission of Human Rights and various public and private universities. He was awarded an honorary doctorates degree from the National Institute of Criminal Sciences. He received the “Jus” award from the College of Law of UNAM. The Juridical Investigations Institute of said University published a book in his honor, entitled *Liber ad honorem Sergio García Ramírez*, comprised of two volumes in which eighty Mexican and foreign jurists participated.

R. ACADEMIC ACTIVITIES OF THE SECRETARIES OF THE COURT

On January 9, 1998, the Secretary of the Court, Manuel E. Ventura-Robles, was a member of the Judge’s panel in the final debate of the national rounds of the “Philip C. Jessup” competition organized by the Asociación Costarricense de Derecho Internacional (Costa Rican International Law Association).

On March 10 and April 21, 1998, the Secretary of the Court gave a conference on the OAS in the International Politics courses organized by the Asociación Nacional de Fomento Económico (National Association of Economic Development), in San José, Costa Rica. On April 1, 1998, the Secretary participated in a panel on the future of the inter-American and European system for the protection of human rights (“*The Future of the Inter-American and the European Systems of Human Rights Protection*”) organized by Ibero-Latin American Studies Institute of Columbia University in New York, United States of America. On November 24, 1998, the Secretary of the Court participated as a moderator in the round table “The Reforms of the Inter-American System for the Promotion and Protection of Human Rights”, in San José, Costa Rica, as part of the cycle of conferences to commemorate the 50th Anniversary of the Universal Declaration of Human Rights.

On August 7, 1998, the Secretary of the Court presided and the Interim Deputy Secretary of the Court, Víctor M. Rodríguez-Rescia, was a member of the Judge’s panel in the final debate of the international rounds of the Inter-American Human Rights “Eduardo Jiménez de Aréchaga” competition, organized by the Costa Rican International Law Association, “Philip C. Jessup”.

By invitation of the Red Mexicana de Abogados por los derechos de los pueblos indígenas (Mexican Attorneys for the Rights of Indigenous Peoples), the Interim Deputy Secretary, was the principal lecturer in a seminar on Indigenous Rights and the inter-American system, held between October 17 and 18, 1998 in San Isidro, Vista Hermosa, Tlaxiaco, Oaxaca, Mexico.

S. ACADEMIC ACTIVITIES OF THE ATTORNEYS OF THE COURT

Ms. Annabella Revuelta-Reinfeld, attorney-intern of the Secretariat of the Court, was invited by the Danish Centre for Human Rights from March 5 - 7, 1998 to present a series of lectures on the inter-American system of human rights, during the bi-annual course organized by this institution, in the city of Copenhagen, Denmark.

Between June 16 - 26, 1998, Mr. Luis Eduardo Solano-Rojas, assistant to the attorneys, was a participant for the Inter-American Court of Human Rights, in the XVI Inter-Disciplinary Course of Human Right, organized by the Inter-American Institute of Human Rights, in San José, Costa Rica.

From June 29 through July 2, 1998, Víctor Hugo Madrigal-Borloz, Interim Director of the Legal Department of the Court, traveled to Copenhagen, Denmark, in order to meet with functionaries of the Danish Centre for Human Rights and members of the Ministry of Foreign Relations of Denmark. From July 3 - 5, of the same year, Lic. Madrigal-Borloz also made an exchange visit to the European Court of Human rights, during which he was received by functionaries of the Secretariat of the Court, with the hopes of obtaining training concerning the work systems and computer systems of the European Tribunal. Finally, from July 6 - 31, 1998, Lic. Madrigal-Borloz was given a scholarship from the International Institute of Human Rights to participate in its XXIX Study Session on Human Rights, in Strasbourg, France, during which he obtained a diploma from said Institute.

On July 27, 1998, Ms. Annabella Revuelta, attorney-intern of the Secretariat of the Court, gave a conference on the inter-American system for the protection of human rights to 27 students from Loyola Law School of Los Angeles, California, who visited the seat of the Tribunal.

From August 3 - 6, 1998, María Auxiliadora Solano, Paula Lizano and Emilia Segares, attorneys of the Court, and Mr. Winston Salas, Librarian, were members of a Judge's panel in the eliminatory international round of the Inter-American Human Rights "Eduardo Jiménez de Aréchega" competition, organized by the Costa Rican International Law Association, "Philip C. Jessup".

IV. ADMINISTRATIVE AND FINANCIAL MATTERS

A. APPLICATION PROCESS TO CONTRACT PERSONNEL

In accordance with that set forth in the Administrative Independence Agreement of the Court, as of January 1, 1998, the Secretariat proceeded to gather the corresponding applications in order to contract all of the personnel of the Secretariat, with the exception of the position of Secretary, who is named by the Court. The nature of each position was analyzed in the course of the process. For the position of Deputy Secretary, the international consulting company "Price Waterhouse" was contracted to provide a pre-selection of candidates. The process consisted of receiving the service

bids and the pre-selection of six finalists, who were interviewed in Costa Rica by the Court to determine and verify their knowledge and abilities. Later, a Commission selected by the Court, formed of the President, Vice President, Judge Máximo-Pacheco and the Secretary, interviewed the finalists and the selection of Mr. Renzo M. Pomi, an Uruguayan, was made. Mr. Pomi, an attorney with a masters degree in international and human rights law from Harvard Law School, will assume his functions as of January 1, 1999.

The application process for the rest of the professional personnel, was also of an international character. It was held entirely by the Secretariat of the Court in order to contract attorneys, administrative officials, and a librarian for the Secretariat. Forty-two offers were received for the position of attorneys, 2 for the librarian position and 1 for the administrative official. In regards to the positions for general services, an evaluation of the work was held for all of the positions and the recommendation made by the chiefs of each area to the Secretary was followed. All of those named, will begin their functions as of January 1, 1999.

B. EXTERNAL FINANCIAL AUDIT OF THE COURT

An audit on the financial status of the Inter-American Court was conducted for the 1997 fiscal year by the auditing firm External Independent Venegas, Pizarro, Ugarte and Co., Contadores Públicos Autorizados (Authorized Public Accountants), representatives in Costa Rica of the HIB International firm.

The audit included not only the funds derived from the OAS but also those given by the State of Costa Rica during the same period. The financial status is the responsibility of the administration of the Inter-American Court and the audit was conducted in order to obtain an opinion to determine the validity of the financial transactions executed by the Court, taking into account generally accepted auditing and accounting principles.

According to the January 19, 1998, report from Authorized Public Accountants indicated above, that the financial status of the Court adequately expresses the financial and patrimonial situation for the Institution, and also the income, payments and cash flows for the 1997 period conform with generally accepted principles of accounting for not-for-profit institutions (such as the Court) and applies on a consistent basis.

From the presented report from the independent auditors, it can be deduced that the internal accounting control system utilized by the Court is adequate for the registration and control of the transactions and that it utilizes reasonable commercial practices to ensure the most effective utilization of supplied funds.

A copy of this report was sent to the Financial Services Department of the OAS and to the Inspector General of the Organization.