

2012

# Annual Report 2012





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## I. Introductory note

To all the inhabitants of the Americas:

I have the honor, on behalf of all the judges, members of the Inter-American Court of Human Rights, to address all the women and men of the Americas in order to share this Annual Report for 2012. It includes the most essential aspects of the jurisdictional work of the Inter-American Court and its different activities designed to draw closer to the institutions and peoples of the Americas. Evidently, the activities of an international human rights court are based on the law and, in our case, primarily on the American Convention on Human Rights.

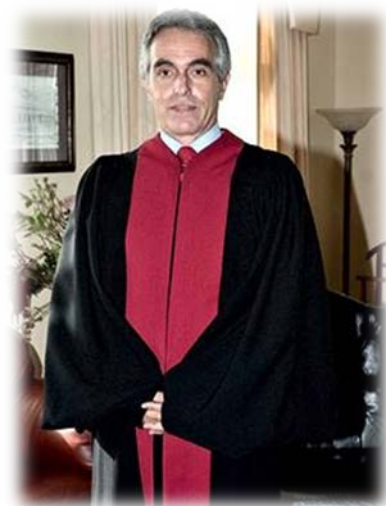
From this perspective, it should be understood that our Court belongs, above all, to the people; to the peoples of the Americas to whom the Court is trying to draw ever closer; through its case law and through an increasingly fluid and constant communication with the institutions and society in each country. To this end, the Court has made a special effort to provide information on its activities and results through different media, and also to reach out directly facilitating the access of everyone to the court's activities.

The hearings held away from our seat are a particularly important mechanism for the society of each country to directly observe the "court in action" and, this year, public hearings were held in Guayaquil, Ecuador, in April 2012. In addition, the Court now guarantees, decisively, that our activities are made public, ensuring that all public hearings are truly public by disseminating them live online.

Since its installation in 1979, the Inter-American Court of Human Rights has kept abreast of the evolution of the social, political and institutional reality of our societies. This evolution has translated into new issues that are being submitted to the Court for its consideration and decision. Among other aspects, this report describes significant developments in case law on issues that the Court had not dealt with previously. Thus, the Court ruled on topics such as discrimination based on sexual orientation, the rights of persons with disabilities, and paternity and reproductive rights, among others..

Nowadays, the Inter-American Court has a particularly advantageous dynamic of live interaction with national institutions, especially the jurisdictional organs. In this perspective, the inter-American jurisdictional system of human rights is not limited to our Court, but is composed and enhanced by the judicial institutions that play a vigorous role in controlling conformity with the Convention.

Furthermore, in an unprecedented action, the Inter-American Court of Human Rights visited and held a hearing in the territory of the Kichwa Indigenous People of Sarayaku, in the southeastern Amazonian region of Ecuador. The visit was organized as an exceptional measure in the case in order to observe *in situ* the situation and experiences of the alleged



victims of the case, as well as certain places where the events of the case occurred. This experience resulted from the requirements of the case and reflects the Court's determination to draw increasingly closer to the people and their national institutions.

In the same spirit that has inspired the Court in recent years, the use of new technologies and audiovisual media has been fundamental in making inter-American justice more accessible. This year the public hearings have all, without exception, been transmitted by electronic means.

Similarly, the Court accords great importance to making appropriate technical means available to the national institutions, the national legal communities and other interested parties in general so that they may access the Court's decisions more systematically and in a way that is more user-friendly. To this end, during 2012, we have been working with the Supreme Court of Justice of Mexico on the design of the technical tools required to make it possible to access the Inter-American Court's case law based on specific topics and problems, using a wide range of search engines; thus allowing those interested and, particularly, national agents of justice, to locate the essence of the Court's decisions on any chosen topic or problem. This system will be completed and made available to the public during 2013.

At the end of 2012, Judge Leonardo A. Franco of Argentina, Judge Margarete May Macaulay of Jamaica and Judge Rhadys Abreu Blondet of the Dominican Republic finished their terms as judges of the Inter-American Court. I can only thank these three colleagues who, for six years, fulfilled their jurisdictional duties in a determined and committed manner, demonstrating complete independence and impartiality when making decisions and a great commitment to the defense and promotion of human rights. Similarly, I want to thank and welcome the three new judges that will join us from 2013, Judge Roberto de Figueiredo Caldas of Brazil, Judge Humberto Sierra Porto of Colombia and Judge Eduardo Ferrer MacGregor of Mexico. All of them are jurists with distinguished careers, who, I'm sure, will strengthen the work of the Inter-American Court with their knowledge and experience.

I venture to say that 2012 was a year in which the Inter-American Court reaffirmed its commitment to the history of the peoples of the hemisphere. Moreover, we can announce our determination to tackle the new challenges that arise owing to the satisfactory results achieved by the inter-American system. If there is still some way to go, it is because there is still work to be done.

Diego García-Sayán  
President of the Inter-American Court of Human Rights

## II. Structure

### A. Establishment

The Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) was formally established on September 3, 1979, as a result of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) entering into force on July 18, 1978.



### B. Organization

The Statute of the Court establishes that it is an autonomous judicial institution, whose purpose is the interpretation and application of the American Convention. The seat of the Court is in San José, Costa Rica, and it is composed of seven judges, nationals of Member States of the Organization of American States (OAS).

The judges are elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights. In addition, the judges must 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. The judges are elected by the States Parties by secret ballot and by the vote of an absolute majority during the OAS General Assembly immediately before the expiry of the terms of the outgoing judges.

Judges are elected for a term of six years and may be re-elected only once. Judges whose terms have expired shall continue to serve with regard to the cases they have begun to hear and that are still pending judgment. The President and the Vice President are elected by the judges themselves for a two-year period and they can be re-elected. The judges are always at the disposal of the Court and are assisted in the exercise of their functions by the Court’s Secretariat.

### C. Composition



In 2011, the composition of the Court was as follows, in order of precedence: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

Judges Leonardo A. Franco (Argentina), Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic) ended their mandate as judges on December 31, 2012. Therefore, three new judges were elected during the forty-second General Assembly of the OAS held in Cochabamba, Bolivia from June 3 to 5, 2012, and they assume office on January 1, 2013. They are: Roberto de Figueiredo Caldas (Brazil), Humberto Sierra Porto (Colombia) and Eduardo Ferrer Mac-Gregor (Mexico).

## D. States parties

Of the 35 States that are members of the OAS, the following 21 have accepted the compulsory jurisdiction of the Court: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela.<sup>1</sup>

## E. Jurisdiction

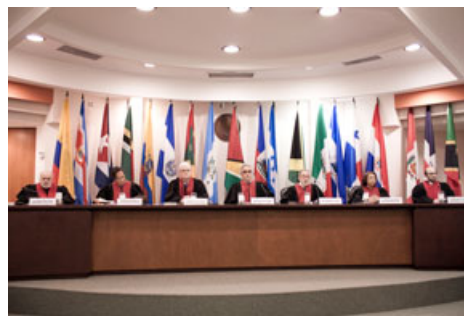
The Convention confers contentious and advisory functions on the Court, and it has the authority to order provisional measures.

### 1. Contentious function

This function enables the Court to determine, in cases submitted to its jurisdiction, whether a State has incurred international responsibility for the violation of any of the rights recognized in the American Convention or in other human rights treaties applicable to the inter-American system and, as appropriate, order the necessary measures to repair the consequences of the violation of such rights. In addition, in accordance with this function, the Court monitors compliance with its judgments.

#### a) Contentious Cases

The procedure which the Court follows to decide the contentious cases submitted to its jurisdiction has two stages: (1) Contentious stage. This stage includes four phases: (a) the phase of the submission of the case by the Commission; the presentation of the brief with pleadings, motions and evidence by the alleged victims, and the presentation of the brief in answer to the two previous briefs by the defendant State; the briefs in answer to the preliminary objections filed by the State, when applicable; the brief with the final list of deponents and expert witnesses, and the order convening a hearing; (b) the oral or public hearing phase; (c) the phase of the briefs with the final



<sup>1</sup> On September 6, 2012, Venezuela presented an instrument denouncing the American Convention on Human Rights to the Secretary General of the Organization of American States (OAS). The denunciation only enters into force one year after it has been filed. Cf. Press communiqué of the Organization of American States of September 12, 2012. <http://www.oas.org/es/cidh/prensa/comunicados/2012/117.asp>.

arguments and observations of the parties and the Commission; (d) the phase of the deliberation and delivery of judgments, and (2) Stage of monitoring compliance with judgments.

The contentious stage begins with the submission of the case to the Court. To ensure that the Court and the parties have all the information required for the appropriate processing of the proceedings, the Court's Rules of Procedure require that the application presenting the case include, *inter alia*: (a) the reasons that led the Commission to present the case; (b) a copy of the report issued by the Commission under Article 50 of the Convention, and (c) a copy of the complete case file before the Commission, including any communication subsequent to the report under Article 50 of the Convention. Once the case has been presented, the President makes a preliminary examination to verify that the essential requirements for its presentation have been fulfilled. If so, the Secretariat notifies the case to the defendant State and to the alleged victim, his or her representatives or the inter-American defender, as appropriate.

Following notification of the case, the alleged victim or his or her representatives have two months from the time they receive a copy of the application and its attachments, to submit their autonomous brief with pleadings, motions and evidence. This brief must include, *inter alia*: (a) a description of the facts, within the factual framework established by the Commission; (b) the evidence offered, in due order, indicating the facts and arguments to which it refers, and (c) the claims.

When the brief with pleadings, arguments and evidence has been notified, the State has two months from the time it receives this brief and its attachments to answer the briefs, indicating: (a) whether it accepts the facts and the claims or whether it contests them; (b) the evidence offered, in due order, indicating the facts and arguments to which it refers, and (c) the legal grounds, the observations on the reparations and costs requested, and the pertinent conclusions. This answer is forwarded to the Commission and to the alleged victim, the representatives or the inter-American defender. If the State files preliminary objections, the Commission and the alleged victims or their representatives can submit any observations they consider pertinent within 30 days. If the State makes a partial or total acknowledgement of responsibility, the Commission and the representatives are granted time to forward any observations they consider pertinent.

Following the reception of the brief submitting the case, the brief with pleadings, motions and evidence, and the State's answering brief, and before the oral proceedings start, the Commission, the alleged victims or their representatives and the defendant State may ask the President to take other measures under the written proceedings. If the President considers this pertinent, he will establish the time frames for the presentation of the respective documents

Once the final lists of deponents and expert witnesses have been received from the parties, these are shared among them so that they may present their observations. Then, the President of the Court issues an order convening a public hearing in which, based on the observations of the parties, and making an analysis of them and of the information in the case file, he decides which of the witnesses and expert witnesses will take part in the public hearing of the case, and which of them will participate in the proceedings by affidavit. In this Order, the President establishes a specific day and time to hold the said hearing and summons the parties and the Commission to take part in it.

The public hearing initiates the second stage of the proceedings before the Court, which will be described more fully in the section of the Report entitled "Sessions." Once this stage has concluded, the alleged victims or their representatives and the defendant State present their

final written arguments. The Commission, if it considers pertinent, presents final written observations.

It is worth noting that, in addition to the arguments and documentation provided by the parties, at any stage of the proceedings, the Court may: (a) obtain *ex officio* any evidence it considers useful and necessary; (b) require the provision of any evidence or any explanation or statement that, in its opinion, may be useful; (c) request from any entity, office, organ or authority it wishes, that it obtain information, express an opinion, or prepare a report or opinion on any specific point, and (d) commission one or several of its members to carry out any investigation measures, including hearings, either at the seat of the Court or outside it. In this regard, in 2012, the Inter-American Court took a historic action by conducting a probative measure in the territory of the Kichwa Indigenous People of Sarayaku in the Amazonian region, Pastaza, Ecuador, in the context of the *case of the Kichwa Indigenous People of Sarayaku v. Ecuador*. This was the first time that a delegation of the Court has visited the site of a contentious case it is hearing. The visit was organized as an exceptional measure in the case, at the invitation of the State itself, and with the participation of the other parties to the proceedings, in order to observe *in situ* the situation and experiences of the alleged victims in the case, as well as certain places where the facts of the case took place. The delegation of the Court that made the visit was composed of the President of the Court, Judge Diego García-Sayán, Judge Rhadys Abreu Blondet, the Secretary, Pablo Saavedra Alessandri, and lawyers from the Secretariat. In addition, representatives of the Inter-American Commission and the State of Ecuador took part in the visit.

When the final written arguments of the parties have been received and any of the claims mentioned dealt with, as appropriate, the case is ready for the adoption of the judgment. This initiates the fourth phase relating to the delivery of judgments. The judgments handed down by the Court are final and non-appealable. Nevertheless, if any of the parties to the proceedings wishes to clarify the scope of the judgment in question, the Court will elucidate it in an interpretation judgment. This interpretation is made at the request of any of the parties, provided the request is submitted within 90 days of the date of notification of the judgment.

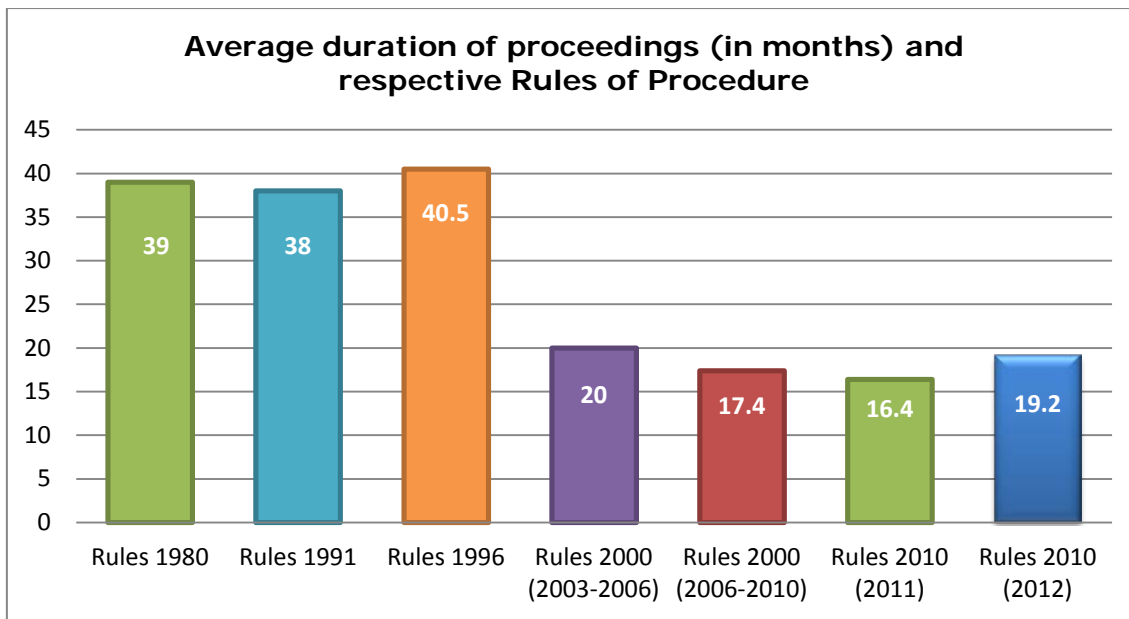
The Court has made a considerable effort to reduce the duration of the cases before it. The principle of reasonable time established in the American Convention and in the Court's consistent case law is not only applicable to the domestic proceedings within each State Party, but also to the international courts or organs whose function is to decide petitions on alleged human rights violations.

In 2012, the average duration of the proceedings of cases before the Court was 19.2<sup>2</sup> months.

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<sup>2</sup> The average duration increased owing to the probative measure taken *in situ* in the *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*. This case exceptionally lasted 26 months.





During 2012, 12 new contentious cases were submitted to the Court. These cases were:

### 1. Case of *J. v. Peru*

On January 4, 2012, the Inter-American Commission submitted this case, which relates to the alleged illegal and arbitrary detention of J. and the alleged house searches conducted on April 13, 1992, by State agents, who allegedly committed acts of torture and cruel, inhuman and degrading treatment, including the alleged rape of the alleged victim. These facts were followed by the supposed transfer of J. to the National Counter-terrorism Directorate (DINCOTE) and her presumed deprivation of liberty there for 17 days, without judicial control and in inhuman detention conditions. The case also relates to a series of alleged violations of due process and the principle of legality and non-retroactivity during the criminal proceedings against the alleged victim for supposed crimes of terrorism while Decree Law 25475 was in force.

### 2. Case of *Liakat Ali Alibux v. Suriname*

The Inter-American Commission submitted the Spanish version of this case on January 20 and the English version on February 7, 2012, and it relates to the alleged retroactive application of the Indictment of Holders of Political Office Act in the criminal investigation and trial of Liakat Ali Alibux, former Minister of Finance and former Minister of Natural Resources, who was found guilty of the offense of fraud on November 5, 2003. The State was also allegedly responsible for violating the rights to judicial guarantees and judicial protection, the principles of legality and non-retroactivity, and freedom of movement and residence.

### 3. Case of *Suárez Peralta v. Ecuador*.

On January 26, 2012, the Inter-American Commission submitted this case, which relates to the alleged lack of judicial guarantees and protection in the criminal proceedings against those allegedly responsible for medical malpractice denounced by Melba del Carmen Suárez Peralta. In July 2000, Melba del Carmen Suárez Peralta was operated on for appendicitis in the Minchala private clinic, which resulted in severe and permanent afflictions. The criminal

proceedings initiated in relation to these facts concluded without any result, when the lack of due diligence in the development of the proceedings led to a declaration of their prescription in 2005, more than five years after the court order to investigate the alleged offense had been issued. The Commission emphasized the lack of diligence on the part of both the prosecutor and the judge in charge of the case. The lack of response and the delay in conducting and advancing the proceedings promoted the impunity of those responsible; consequently, the Commission considered that the State had violated the victim's right to procedural guarantees.

#### **4. Case of Rodríguez Vera et al. (Palacio de Justicia) v. Colombia**

On February 10, 2012 the Inter-American Commission submitted this case, which relates to the alleged enforced disappearance of Carlos Augusto Rodríguez Vera, Cristina del Pilar Guarín Cortés, David Suspes Celis, Bernardo Beltrán Hernández, Héctor Jaime Beltrán Fuentes, Gloria Stella Lizarazo, Luz Mary Portela León, Norma Constanza Esguerra, Lucy Amparo Oviedo de Arias, Gloria Anzola de Lanao, Ana Rosa Castiblanco Torres and Irma Franco Pineda, in the context of the events that took place in the *Palacio de Justicia* on November, 6 and 7, 1985. It also relates to the alleged disappearance and subsequent execution of Carlos Horacio Urán Rojas, as well as the presumed detention and torture of Yolanda Ernestina Santodomingo Albericci, Eduardo Matson Ospino, Orlando Quijano and José Vicente Rubiano Galvis. According to the Commission, there is allegedly information that the State was fully aware of the existence of threats against the justices of the Court prior to the events, as well as risk factors in their regard. The case also relates to the alleged failure of the courts to clarify the facts and to punish all those responsible.

#### **5. Case of the Pacheco Tineo Family v. Bolivia**

On February 21, 2012, the Inter-American Commission submitted this case, which relates to the events surrounding the entry into and expulsion from Bolivia of the members of the Pacheco Tineo family between February 19 and 24, 2001. According to the Commission, when the alleged victims, nationals of Peru, and Chile in the case of the youngest son, entered Bolivia and presented themselves to the National Immigration Service, the Bolivian migratory authorities retained their documents, arbitrarily detained Mr. Pacheco's wife, abstained from examining properly their new request for refugee status, and proceeded to expel them violently to Peru on February 24, 2001, placing them at risk in that country.

#### **6. Case of Allan Brewer Carías v. Venezuela**

On March 7, 2012, the Inter-American Commission submitted this case, which is related to the alleged violation of the rights to judicial guarantees and to judicial protection, recognized in Articles 8 and 25 of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of this instrument, to the detriment of the "constitutional lawyer" Allan R. Brewer Carías. The supposed violations were allegedly committed in the criminal proceedings initiated against Mr. Brewer Carías "for the crime of conspiracy to change the Constitution through violent means, in connection with the events of April 11 and 13, 2002; in particular, [owing to] his supposed involvement [in] the drafting of the so-called "Carmona Decree" ordering the dissolution of the public authorities and the establishment of a 'democratic transition government'."

#### **7. Case of Véliz Franco v. Guatemala**

On May 3, 2012, the Inter-American Commission submitted this case, which is related to the alleged disappearance of 15 year old María Isabel Véliz Franco, as well as the subsequent irregularities in the investigation of the facts. The Commission indicated that there is no

evidence of any effort made to search for the victim from the time the complaint was filed by Rosa Elvira Franco Sandoval before the Public Prosecution Service on December 17, 2001, until the corpse was found on December 18, 2001. In her complaint, Ms. Franco Sandoval stated that, on December 16, 2001, her daughter left the house at eight in the morning to go to work, and should have returned that same evening, but she never came back. She alleged that there were a series of irregularities in the investigation of the disappearance and subsequent death of María Isabel Véliz Franco, including the failure to take any measures when her disappearance was reported, and, subsequently, alleged flaws in the preservation of the scene of the crime and irregularities in the management and analysis of the evidence collected. During the proceedings before the Commission, the State accepted its responsibility for the lack of due diligence with regard to certain omissions in the investigations into the death of the young girl, Véliz Franco.

#### **8. Case of Argüelles *et al.* v. Argentina**

On May 29, 2012, the Inter-American Commission submitted this case, which relates to the violation of the rights to personal liberty and to a fair trial in the domestic proceedings conducted against military officials for the crime of military fraud, under the provisions of the Argentine Code of Military Justice in force at the time. The facts that gave rise to the proceedings that are the purpose of this case took place from 1978 to 1980 and allegedly resulted in the incommunicado detention, incommunicado, of approximately 50 military officials who were responsible for funds of different bases of the Argentine Air Force. In addition, the Commission argued that the alleged victims were in preventive detention for between seven and eight years, without the State justifying their prolonged detention. The Commission named several officials as alleged victims in this case.

#### **9. Case of Jeremías Osorio Rivera v. Peru**

On June 10, 2012, the Inter-American Commission submitted this case, which relates to the alleged enforced disappearance of Jeremías Osorio Rivera, who was allegedly detained by a Peruvian Army patrol on April 28, 1991, in the province of Cajatambo, department of Lima, without his whereabouts having been determined or those responsible punished to date. Mr. Osorio Rivera was presumably detained by members of the Cajatambo Counter-terrorism Base. It is alleged that enforced disappearance was used systematically by members of the State's security forces. The Commission also concluded that Jeremías Osorio had been subjected to acts of torture during his transfer by members of the Army on April 30, 1991, and that the soldiers allegedly withheld and then spread false information as to his whereabouts.

#### **10. Case of the Landaeta Mejías Brothers *et al.* v. Venezuela.**

On July 10, 2012, the Inter-American Commission submitted this case, which relates to the extrajudicial execution of brothers Igmair Alexander and Eduardo José, both Landaeta Mejías, aged 18 and 17 years old, respectively, by members of the Public Security and Order Unit of Aragua state. It is alleged that these events took place in a context of extrajudicial executions in Venezuela, especially in Aragua state, and that the death of the two brothers remains in impunity.

#### **11. Case of Tide Méndez v. Dominican Republic**

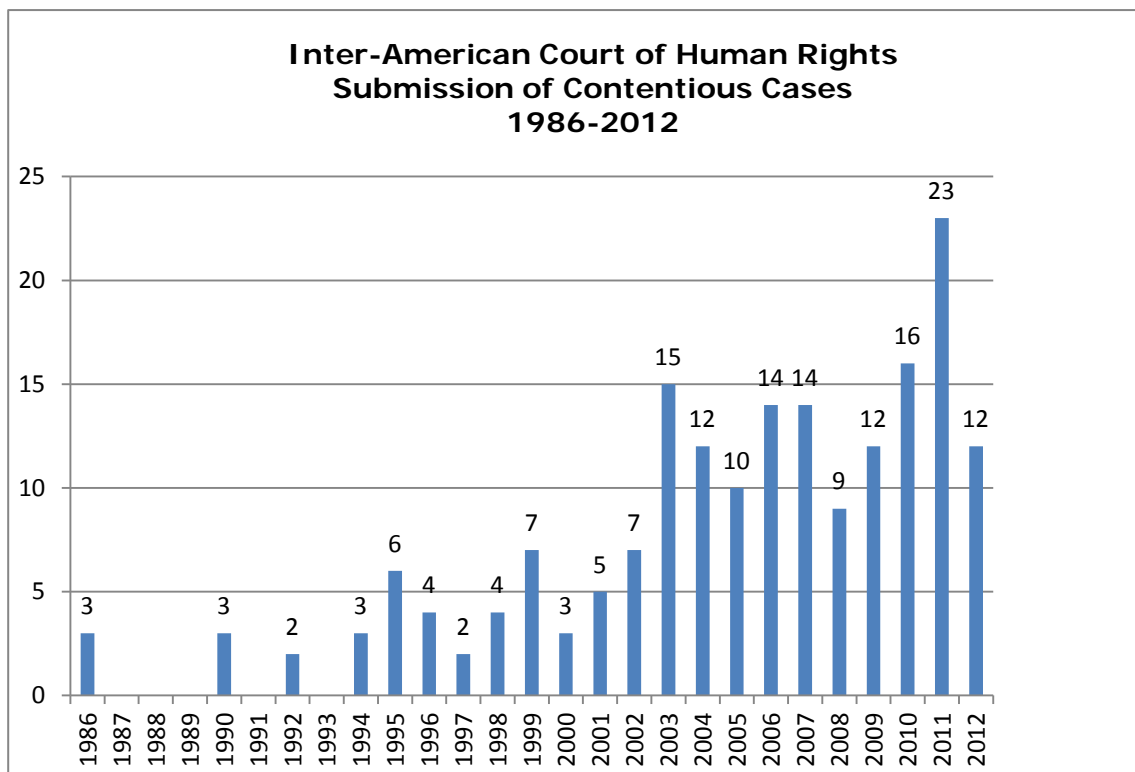
On July 12, 2012, the Inter-American Commission submitted this case, which relates to the alleged arbitrary detention and summary expulsion from the territory of the Dominican Republic of Benito Tide Méndez, William Medina Ferreras, Lilia Jean Pierre, Jeanty Fils-Aime, Janise Midi, Ana Virginia Nolasco, Anrea Alezy, Rafaelito Pérez Charles, Víctor Jean, Marlene Mesidor, and the children Wilda Medina, Luis Ney Medina, Carolina Isabel Medina, Nene Fils-

Aime, Antonio Fils-Aime, Diane Fils-Aime, Marilobi Fils-Aime, Endry Fils-Aime, Andren Fils-Aime, Juan Fils-Aime, Ana Lidía Sensión, Reyita Antonia Sensión, Berson Gelin, McKenson Jean, Victoria Jean, Miguel Jean and Nathalie Jean. In its merits report, the Commission concluded that the summary expulsion of the victims took place in a context of collective and massive expulsions that affected both nationals and foreigners, documented and undocumented, with permanent residence and close work and family ties of work in the Dominican Republic.

### 12. Case of Gudiel Ramos *et al.* v. Guatemala

On July 17, 2012, the Inter-American Commission submitted this case, which relates to the State's international responsibility for failing to prevent the murder of the human rights defender Florentín Gudiel Ramos that occurred on December 20, 2004. The Commission underlined the alleged impunity of the murder of Mr. Gudiel Ramos owing to alleged irregularities committed when the investigation began, and the alleged lack of diligence in investigating the different hypotheses on the motive for the murder. In addition, the Commission alleged that the investigation was not conducted within a reasonable time and was impaired by the alleged failure to protect those who had played an active role in the proceedings. The situation of lack of protection of the family resulted in their alleged displacement and a violation of the right to freedom of movement and residence. The Commission also concluded that these facts constituted a violation of the obligation to guarantee the political rights of Mr. Gudiel Ramos, owing to the public function that he held, and also the impossibility of his daughter, Makrina Gudiel Álvarez, to continue with the exercise of those rights.

The Court observes that, in 2012, the Inter-American Commission submitted fewer cases to the Court than in the two preceding years, as shown by the following table:



During 2012, the Court delivered 21 judgments; these are described in the section on "Sessions". It is worth underlining that 2012 has been the year during which most judgments were delivered. In comparison, 9 judgments were delivered in 2010, and 18 in 2011.

During 2012, 14 public hearings on contentious cases were held, during which the oral statements of 22 alleged victims, 4 witnesses and 25 expert witnesses were received, making a total of 51 statements.

### *b) Monitoring compliance with judgments*

The Inter-American Court monitors compliance with its judgments. The authority to monitor its judgments is inherent in the exercise of its jurisdictional powers, and its legal basis can be found in Articles 33, 62(1), 62(3) and 65 of the Convention, as well as in Article 30 of the Court's Statute. The purpose is to ensure that the reparations ordered by the Court in each specific case are implemented and fulfilled.

Monitoring compliance with the Court's judgments implies, first, that it must periodically request information from the States on the measures taken to comply with the said judgments, and then obtain the observations of the Commission, and the victims or their representatives. When the Court has received this information, it can assess whether the State has complied with the measures ordered, provide guidance for the State's actions to that effect and, if appropriate, convene a monitoring hearing. The procedure for monitoring compliance with the Court's judgments and other decisions is regulated by Article 69 of the Court's Rules of Procedure.

In 2012, the Court issued 32 orders on monitoring compliance with judgment and held five private hearings and one public hearing on 14 cases. This is because, in 2010, the Court began the practice of holding monitoring hearings with regard to one State, but in relation to more than one case when similar measures of reparation were being monitored.

At the end of 2012, the Court had 138 contentious cases at the stage of monitoring compliance with judgment. However, this does not mean that the respective judgments have not been complied with. To the contrary, in most cases a significant number of the reparations have been fulfilled or are being fulfilled. In this regard, it should be recalled that, owing to the nature of some of the reparations decided by the Court – such as judicial investigations, the creation or amendment of laws, structural changes or provision of health care – the Court must keep the monitoring stage open for longer than in the case of other types of reparation that are less complex in their implementation.

Consequently, even though most of the measures of reparation have been fulfilled, the Court continues to monitor cases until it considers that all measures of reparation have been complied with. It should be noted that, this year, three cases were concluded: *Escher v. Brazil*, *Lori Berenson Mejía v. Peru* and *Mejía Idrovo v. Ecuador*.

The following cases are at the stage of monitoring compliance by the Court:

	Name	Defendant State
1	Case of 19 Tradesmen	Colombia
2	Case of Abrill Alosilla <i>et al.</i>	Peru
3	Case of Acevedo Buendía <i>et al.</i> ("Discharged and Retired Employees of the Comptroller's Office")	Peru
4	Case of Acevedo Jaramillo <i>et al.</i>	Peru
5	Case of Albán Cornejo <i>et al.</i>	Ecuador
6	Case of Almonacid Arellano	Chile
7	Case of Anzualdo Castro	Peru
8	Case of Apitz Barbera <i>et al.</i>	Venezuela
9	Case of Artavia Murillo <i>et al.</i>	Costa Rica
10	Case of Atala Riffo and daughters	Chile
11	Case of Baena Ricardo <i>et al.</i>	Panama
12	Case of Baldeón García	Peru
13	Case of Bámaca Velásquez	Guatemala
14	Case of Barbani Duarte <i>et al.</i>	Uruguay
15	Case of Barreto Leiva	Venezuela
16	Case of Barrios Altos	Peru
17	Case of Bayarri	Argentina
18	Case of Benavides Cevallos	Ecuador
19	Case of Blake	Guatemala
20	Case of Blanco Romero <i>et al.</i>	Venezuela
21	Case of Boyce <i>et al.</i>	Barbados
22	Case of Bueno Alves	Argentina
23	Case of Bulacio	Argentina
24	Case of Caballero Delgado and Santana	Colombia
25	Case of Cabrera García and Montiel Flores	Mexico
26	Case of Caesar	Trinidad and Tobago
27	Case of Cantoral Benavides	Peru
28	Case of Cantoral Huamaní and García Santa Cruz	Peru
29	Case of Cantos	Argentina
30	Case of Carpio Nicolle <i>et al.</i>	Guatemala
31	Case of Castañeda Gutman	Mexico
32	Case of Castillo Páez	Peru
33	Case of Castillo Petruzzi <i>et al.</i>	Peru
34	Case of Cepeda Vargas	Colombia
35	Case of Cesti Hurtado	Peru

36	Case of "Cinco Pensionistas"	Peru
37	Case of Chaparro Álvarez and Lapo Íñiguez	Ecuador
38	Case of Chitay Nech <i>et al.</i>	Guatemala
39	Case of Chocrón Chocrón	Venezuela
40	Case of the Sawhoyamaxa Indigenous Community	Paraguay
41	Case of the Xákmok Kásek Indigenous Community	Paraguay
42	Case of the Yakye Axa Indigenous Community	Paraguay
43	Case of the Moiwana Community	Suriname
44	Case of Contreras <i>et al.</i>	El Salvador
45	Case of DaCosta Cadogan	Barbados
46	Case of De La Cruz Flores	Peru
47	Case of the Las Dos Erres Massacre	Guatemala
48	Case of the Mapiripán Massacre	Colombia
49	Case of the Pueblo Bello Massacre	Colombia
50	Case of the La Rochela Massacre	Colombia
51	Case of the Serrano Cruz Sisters	El Salvador
52	Case of the Ituango Massacres	Colombia
53	Case of the Yean and Bosico Girls	Dominican Republic
54	Case of the "Street Children" (Villagrán Morales <i>et al.</i> )	Guatemala
55	Case of El Caracazo	Venezuela
56	Case of the Miguel Castro Castro Prison	Peru
57	Case of the Constitutional Court	Peru
58	Case of Díaz Peña	Venezuela
59	Case of Durand and Ugarte	Peru
60	Case of El Amparo	Venezuela
61	Case of Escué Zapata	Colombia
62	Case of the Barrios Family	Venezuela
63	Case of Fermín Ramírez	Guatemala
64	Case of Fernández Ortega <i>et al.</i>	Mexico
65	Case of Fleury	Haiti
66	Case of Fontevecchia and D'Amico	Argentina
67	Case of Fornerón and daughter	Argentina
68	Case of Furlan and family members	Argentina
69	Case of García Asto and Ramírez Rojas	Peru
70	Case of García Prieto <i>et al.</i>	El Salvador
71	Case of García and family members	Guatemala
72	Case of Garibaldi	Brazil
73	Case of Garrido and Baigorria	Argentina

74	Case of Gelman	Uruguay
75	Case of Goiburú <i>et al.</i>	Paraguay
76	Case of Gomes Lund <i>et al.</i>	Brazil
77	Case of Gómez Palomino	Peru
78	Case of González Medina and family members	Dominican Republic
79	Case of González <i>et al.</i> ("Cotton field")	México
80	Case of Gudiel Álvarez ( <i>Diario Militar</i> )	Guatemala
81	Case of Gutiérrez Soler	Colombia
82	Case of Heliodoro Portugal	Panama
83	Case of Gómez Paquiyauri Brothers	Peru
84	Case of Hilaire, Constantine, Benjamin <i>et al.</i>	Trinidad and Tobago
85	Case of Huilca Tecse	Peru
86	Case of Ibsen Cárdenas and Ibsen Peña	Bolivia
87	Case of the "Children's Rehabilitation Institute"	Paraguay
88	Case of Ivcher Bronstein	Peru
89	Case of Juan Humberto Sánchez	Honduras
90	Case of Kawas Fernández	Honduras
91	Case of Kimel	Argentina
92	Case of La Cantuta	Peru
93	Case of Las Palmeras	Colombia
94	Case of Loayza Tamayo	Peru
95	Case of López Álvarez	Honduras
96	Case of López Mendoza	Venezuela
97	Case of Maritza Urrutia	Guatemala
98	Case of the Massacres of El Mozote and nearby places	El Salvador
99	Case of the Plan de Sánchez Massacre	Guatemala
100	Case of the Río Negro Massacres	Guatemala
101	Case of the Santo Domingo Massacre	Colombia
102	Case of Mohamed	Argentina
103	Case of Molina Theissen	Guatemala
104	Case of Montero Aranguren <i>et al.</i>	Venezuela
105	Case of Myrna Mack Chang	Guatemala
106	Case of Nadege Dorzema <i>et al.</i>	Dominican Republic
107	Case of Neira Alegría <i>et al.</i>	Peru
108	Case of Pacheco Teruel	Honduras
109	Case of Palamara Iribarne	Chile
110	Case of Paniagua Morales <i>et al.</i>	Guatemala
111	Case of Perozo <i>et al.</i>	Venezuela



112	Case of the Saramaka People	Surinam
113	Case of the Kichwa Indigenous People of Sarayaku	Ecuador
114	Case of Radilla Pacheco	Mexico
115	Case of Raxcacó Reyes	Guatemala
116	Case of Reverón Trujillo	Venezuela
117	Case of Ríos <i>et al.</i>	Venezuela
118	Case of Rosendo Cantú <i>et al.</i>	Mexico
119	Case of Salvador Chiriboga	Ecuador
120	Case of Servellón García <i>et al.</i>	Honduras
121	Case of Suárez Rosero	Ecuador
122	Case of Tibi	Ecuador
123	Case of Ticona Estrada	Bolivia
124	Case of Tiu Tojin	Guatemala
125	Case of Torres Millacura <i>et al.</i>	Argentina
126	Case of the Dismissed Congressional Employees	Peru
127	Case of Trujillo Oroza	Bolivia
128	Case of Usón Ramírez	Venezuela
129	Case of Uzcátegui <i>et al.</i>	Venezuela
130	Case of Valle Jaramillo <i>et al.</i>	Colombia
131	Case of Vargas Areco	Paraguay
132	Case of Vélez Loor	Panama
133	Case of Vélez Restrepo and family members	Colombia
134	Case of Vera Vera <i>et al.</i>	Ecuador
135	Case of Ximenes Lopes	Brazil
136	Case of Yatama	Nicaragua
137	Case of Yvon Neptune	Haiti
138	Case of Zambrano Vélez <i>et al.</i>	Ecuador

Monitoring compliance with its judgments has become one of the most demanding activities of the Court because, each year, the number of active cases increases significantly and the Court periodically monitors the details of each reparation ordered in each case.

The reparations ordered by the Court in the cases submitted to its consideration have to be monitored in great detail, owing to the extensive nature of the reparations. This is because the Court does not only order measures of a compensatory nature, but also, in most cases, it orders measures relating to other types of reparation, which include:

**a) Measures of restitution**

These measures entail the re-establishment, insofar as possible, of the situation that existed before the violation occurred. As a form of reparation, restitution includes measures such as: (a) re-establishment of the liberty of persons illegally detained; (b) return of property

illegally seized; (c) return to the place of residence from which the victim was displaced; (d) reinstatement in employment; (e) annulment of judicial, administrative, criminal or police record and cancellation of the corresponding records, and (f) the return, demarcation and granting of title to the traditional territory of the indigenous communities to protect their communal property.

#### **b) Measures of rehabilitation**

These are the measures aimed at the provision of the required medical and psychological care to attend to the physical and mental health of the victims, which must be supplied free of charge and immediately, including the provision of medicines and, as appropriate, the supply of goods and services.

#### **c) Measures of satisfaction**

These measures are aimed at repairing the non-pecuniary damage (suffering and anguish caused by the violation, harm to values that are very significant to the individual, and any change of a non-pecuniary nature in the living conditions of the victims). They also include, *inter alia*, acts or objects of public scope or impact, such as acts to acknowledge responsibility, public apologies to the victims, and acts to commemorate the victims, with the aim of recovering the memory of the victims, recognizing their dignity and consoling their next of kin.

In this regard, the following are some example of measures of satisfaction: (a) a public act to acknowledge international responsibility and amend the memory of the victims; (b) publication or dissemination of the Court's judgment; (c) measures to commemorate the victims or the facts; (d) scholarships or commemorative grants, and (e) implementation of social programs.

#### **d) Guarantees of non-repetition**

These are measures intended to ensure the non-recurrence of human rights violations such as those that occurred in the case examined by the Court. These guarantees are of public scope or impact and, in many cases, resolve structural problems, so that not only the victim in the case benefits but also other groups or members of society. The guarantees of non-repetition can be divided into three groups, according to their nature and purpose, namely: (a) measures to adapt domestic law to the parameters of the Convention; (b) human rights training for public officials, and (c) adoption of other measures to guarantee the non-repetition of violations.

#### **e) Obligation to investigate, prosecute and punish, as appropriate**

This refers to an obligation that States have to guarantee the effective investigation of the acts that violated human rights and, as appropriate, to determine the masterminds and perpetrators of those acts, as well as to apply the corresponding punishments. This obligation also entails conducting administrative investigations in order to sanction those who may have obstructed the domestic proceedings. This obligation also means that, if applicable, the States must determine the whereabouts of the victims when these are unknown. In addition, the State must remove all the obstacles, *de facto* and *de jure*, that prevent the due investigation of the facts, and use all available means to expedite the said investigation and the respective proceedings, in order to avoid the repetition of those acts.

Compliance with this obligation contributes, in turn, to the reparation for the victims and their next of kin.

## 2. Advisory function

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This function allows the Court to respond to consultations by OAS Member States or the organs of the OAS on the interpretation of the American Convention or other treaties for the protection of human rights in the States of the Americas. Furthermore, at the request of an OAS Member State, the Court may issue its opinion on the compatibility of domestic norms with the instruments of the inter-American system.

Advisory opinions are useful instruments for the States and for the organs of the OAS itself to enhance and expand the inter-American *corpus iuris*, without waiting for a human rights violation, by establishing clear and rigorous standards for the promotion, defense and guarantee of human rights in the hemisphere. Through its numerous advisory opinions, the Court has been able to rule on essential issues such as: international treaties subject to the advisory jurisdiction of the Court; the effect of reservations on the entry into force of the American Convention; restrictions to the death penalty; proposed amendments to the Constitution of a State Party; compulsory membership in an association prescribed by law for the practice of journalism; enforceability of the right of reply or rectification; *habeas corpus* in emergency situations; interpretation of the American Declaration of the Rights and Duties of Man within the framework of Article 64 of the Convention; exceptions to the exhaustion of domestic remedies; compatibility of draft legislation with the Convention; certain attributes of the Inter-American Commission established in the Convention; international responsibility for the promulgation and enforcement of laws in violation of the Convention; reports of the Inter-American Commission; right to information on consular assistance within the framework of the guarantees of due process of law; juridical status and human rights of the child; juridical status and human rights of undocumented migrants; control of legality in the exercise of the authority of the Inter-American Commission, and Article 55 of the American Convention.

Currently, the joint request for an advisory opinion submitted by MERCOSUR States: Argentina, Brazil, Paraguay and Uruguay is pending a ruling by the Court. The purpose of this request was for the Court to “determine with greater precision the obligations of the State in relation to the measures that could be adopted concerning children, related to their migratory status, or that of their parents, in light of the authorized interpretation of Articles 1(1), 2, 4(1), 5, 7, 8, 11, 17, 19, 22(7), 22(8), 25 and 29 of the American Convention and Articles 1, 6, 8, 25 and 27 of the American Declaration of the Rights and Duties of Man and Article 13 of the Inter-American Convention to Prevent and Punish Torture.” The Court convened a hearing of the different representatives of the interested parties on June 26 and 27, 2012. On June 25, 2012, Argentina, in exercise of the Presidency *pro tempore* of Mercosur and in representation of Brazil and Uruguay, requested the suspension of the hearings owing to the political situation in Paraguay at that time. On the same date, the Court advised that the said hearings were postponed.

The complete text of the request is available at: <http://www.corteidh.or.cr/soloc.cfm>

### 3. Provisional measures

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The Court orders provisional measures of protection in order to guarantee the rights of specific individuals or groups of individuals who are in a situation of extreme gravity and urgency, and to avoid them suffering irreparable harm, mainly of the rights to life or to personal integrity.

The three requirements – extreme gravity, urgency and the risk of irreparable harm – have to be justified satisfactorily for the Court to decide to grant these measures which must be implemented by the State concerned.

The provisional measures can be requested by the Inter-American Commission at any time, even if the case has not been submitted to the jurisdiction of the Court, and by the representatives of the alleged victims, provided they relate to a case that the Court is examining. The Court may also issue such measures *ex officio*.

The supervision of the said measures is carried out by the presentation of reports by the State, to which the beneficiaries or their representatives may make the respective observations. The Commission also presents observations on the reports of the State and on the observations made by the beneficiaries. Then, based on the reports forwarded by the States and the corresponding observations, the Inter-American Court evaluates the status of the implementation of the measures and the pertinence of convening those involved to a hearing in which the parties describe the status of the measures that have been adopted, or issues orders relating to the status of compliance with the measures decided.

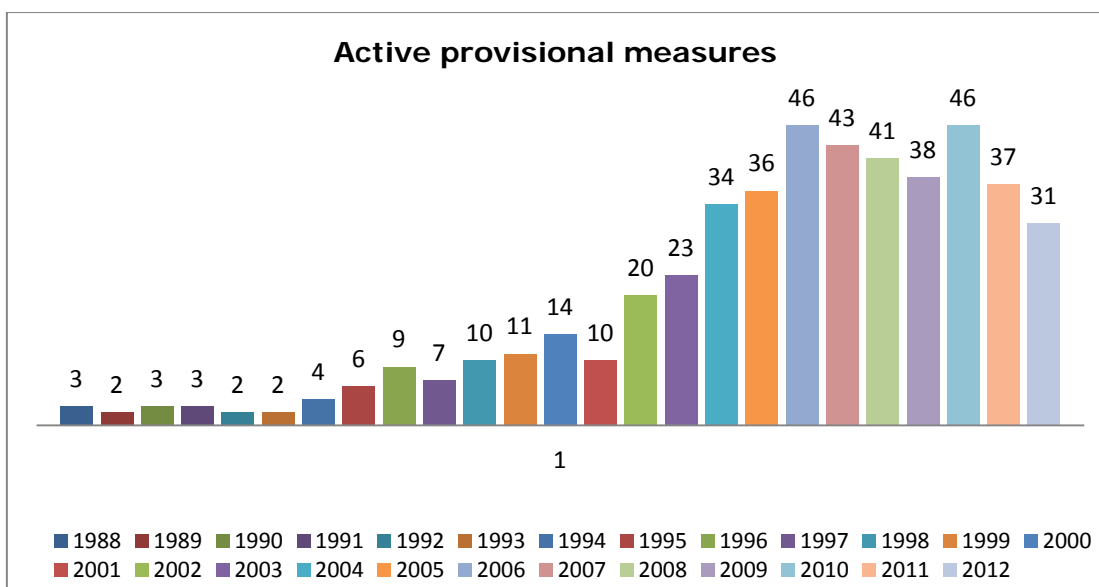
The activity of monitoring implementation of the provisional measures ordered by the Court, contributes to enhancing the effectiveness of the Court's decisions and allows it to receive from the parties more specific information on the status of compliance with each measure decided in its judgments and orders; encourages the States to take concrete measures to execute the said measures, and even encourages the parties to reach agreements in order to ensure improved compliance with the measures ordered.

In 2012, the Court issued 28 orders on monitoring provisional measures. In addition, the President issued nine urgent orders in this regard, in exercise of his authority to issue urgent measures when the Court is not in session, which the Court must ratify or reject subsequently. In addition, the Court held two public hearings and one private hearing on provisional measures. During this year, the Court lifted nine orders for provisional measures,<sup>3</sup> either partially (with regard to some beneficiaries) or totally (with regard to all the beneficiaries), and currently it is monitoring 31 provisional measures.

In 2008, 24 orders on supervising compliance with provisional measures were issued by the Court while, in 2009, 18 orders were issued, in 2010, 8 orders and, in 2011, 6 orders. It is worth underlining that 2012 has been the year during which most orders on monitoring provisional measures were delivered.

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<sup>3</sup> Regarding the following cases: 19 Tradesmen (Colombia); Carpio Nicolle *et al.* (Guatemala); Fernández Ortega *et al.* (Mexico); González Medina (Dominican Republic); Gutiérrez Soler *et al.* (Colombia); Haitians and Dominicans of Haitian origin in the Dominican Republic (Dominican Republic); L.M. (Paraguay), and Raxcacó Reyes *et al.* (Guatemala).



The following provisional measures are being monitored by the Court:

Name	State regarding which they were adopted	
1	19 Tradesmen	Colombia
2	Adrián Meléndez Quijano <i>et al.</i>	El Salvador
3	Almonte Herrera <i>et al.</i>	Dominican Republic
4	Alvarado Reyes <i>et al.</i>	Mexico
5	Álvarez <i>et al.</i>	Colombia
6	Andino Alvarado (Kawas Fernández)	Honduras
7	Matter of Certain Venezuelan Penitentiary Centers, which includes the joinder for procedural processing of the measures adopted in the matters of the Monagas Detention Center (“La Pica”); the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Occidental Region Penitentiary Center (Uribana Prison), the Capital Detention Center El Rodeo I and El Rodeo II; the Aragua Penitentiary Center “Tocorón Prison,” the Ciudad Bolívar Judicial Detention Center “Vista Hermosa Prison” and the Andean Region Prison, as well as with regard to Humberto Prado and Marianela Sánchez Ortiz, her husband Hernán Antonio Bolívar, her son Anthony Alberto Bolívar Sánchez and her daughter Andrea Antonela Bolívar Sánchez.	Venezuela
8	Bámaca Velásquez <i>et al.</i>	Guatemala
9	Peace Community of San José de Apartadó	Colombia
10	Jiguamiandó and the Curbaradó Communities	Colombia
11	Dottin <i>et al.</i>	Trinidad and Tobago
12	Eloisa Barrios <i>et al.</i>	Venezuela
13	“Globovisión” Television Station	Venezuela
14	Fernández Ortega <i>et al.</i>	Mexico
15	Guatemalan Forensic Anthropology Foundation	Guatemala
16	Giraldo Cardona <i>et al.</i>	Colombia
17	Gladys Lanza Ochoa	Honduras
18	Gloria Giralt de García Prieto <i>et al.</i>	El Salvador

19	Guerrero Larez	Venezuela
20	Helen Mack <i>et al.</i>	Guatemala
21	José Luis Galdámez Álvarez <i>et al.</i>	Honduras
22	Luis Uzcátegui <i>et al.</i>	Venezuela
23	Luisiana Ríos <i>et al.</i> (RCTV)	Venezuela
24	María Leontina Millacura Llaipén <i>et al.</i>	Argentina
25	Marta Colomina and Liliana Velásquez	Venezuela
26	La Rochela Massacre	Colombia
27	Mery Naranjo <i>et al.</i>	Colombia
28	Natera Balboa	Venezuela
29	Rosendo Cantú <i>et al.</i>	Mexico
30	Socio-educational Internment Facility	Brazil
31	Wong Ho Wing	Peru

In 2012, seven new requests for provisional measures or for their expansion were submitted to the Court's consideration. These requests are summarized below:

### 1. Request for provisional measures in the Case of Wong Ho Wing (Peru):

On March 2, 2012, the Inter-American Commission on Human Rights presented to the Court a request for provisional measures in favor of Wong Ho Wing. The Commission based its request on the fact that, following the lifting of provisional measures, it had received a series of briefs from the representative of the former beneficiary indicating the existence of new facts that made his extradition likely. On June 26, 2012, the Court issued an Order ([Annex 1](#)), in which it decided to require the State of Peru to abstain from extraditing Wong Ho Wing until December 14, 2012. On December 6, 2012, the acting President for this matter issued an Order ([Annex 2](#)), extending the provisional measures until March 1, 2013.

### 2. Request for the expansion of the provisional measures in the Matter of Certain Venezuelan Prisons (Venezuela)

On July 5, 2012, the Inter-American Commission presented a request to expand the provisional measures in favor of Marianela Sánchez Ortiz and her family. On September 6, 2012, the Court issued an Order ([Annex 3](#)), in which it decided to expand the provisional measures in the matters of certain Venezuelan prisons and to require the State to adopt the necessary measures to protect the life and personal integrity of Marianela Sánchez Ortiz, her husband Hernán Antonio Bolívar, her son Anthony Alberto Bolívar Sánchez and her daughter Andrea Antonela Bolívar Sánchez.

### 3. Request for the expansion of the provisional measures in the matter of Certain Venezuelan Penitentiary Centers (Venezuela)

On July 24, 2012, the representatives of the Venezuelan Observatory of Prisons requested the Inter-American Court to require the Bolivarian Republic of Venezuela to expand the provisional measures ordered in the matters of certain Venezuelan prison in favor of those deprived of liberty in the Andean Region Penitentiary Center (CEPRA). On August 7, 2012, the President of the Court issued an Order ([Annex 4](#)), in which he decided to reject the request as inadmissible, as given that it did not relate to an extension of the measures, since the purpose of the request was not to expand the protection of the provisional measures already ordered.

#### **4. Request for provisional measures in the matter of the Andean Region Penitentiary Center "CEPRA" (Venezuela)**

On August 10, 2012 the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures so that the Bolivarian Republic of Venezuela would protect the life and integrity of those deprived of liberty and other persons present in the Andean Region Penitentiary Center (CEPRA). On September 6, 2012, the Court issued an Order ([Annex 5](#)), in which it decided to require the State to adopt all necessary and effective measures to avoid loss of life and harm to the personal integrity of all those deprived of liberty in the said prison. Furthermore, it decided to joinder the processing of these provisional measures to the "Matter of certain Venezuelan penitentiary centers."

#### **5. Request for the extension of the provisional measures ordered with regard to the Capital Detention Center El Rodeo II to the Capital Detention Center El Rodeo III (Venezuela)**

On August 3, 2012 the representatives of the beneficiaries requested an extension of the provisional measures ordered with regard to the Capital Detention Center El Rodeo II, in order to safeguard the population deprived of liberty in the Capital Detention Center El Rodeo III and to avoid irreparable damage to their life and personal integrity. On September 6, 2012, the Court issued an Order ([Annex 6](#)), in which it decided that the State must maintain or adopt the necessary measures to continue protecting the life and personal integrity of the beneficiaries of the Capital Detention Center El Rodeo I and El Rodeo II, including those deprived of liberty who had been transferred after June 12, 2011, from the Capital Detention Center El Rodeo II, to the Capital Detention Center El Rodeo III.

#### **6. Request for provisional measures in the matter of Millacura Llaipén *et al.* (Argentina)**

On March 2 and October 3, 2012, the representatives requested the expansion of the provisional measures to five other persons who were being threatened and harassed. On November 21, 2012, the Court issued an Order ([Annex 7](#)) in which it decided to reject the request to expand the provisional measures with regard to four of these persons. In addition, on November 21, the President of the Court requested information on the fifth person (Guillermo Flores). At the date of this report, the Court is still examining this request.

#### **7. Request for provisional measures in the matter of Castro Rodríguez (Mexico)**

On November 30, 2012, the Inter-American Commission asked the Court to adopt provisional measures in order to protect the life and integrity of the human rights defender, Lucha Estela Castro Rodríguez, also known as Lucha Castro. In this regard, the Court requested the parties to provide information in order to assess the request. At the date of this report, the Court is still examining this request.

### III. Sessions



The Court carries out different activities during its sessions, including the adoption of judgments, the holding of hearings, and the issue of orders with regard to contentious cases, provisional measures and monitoring compliance with judgments. In addition, the Court considers different procedures in the matters pending before it, as well as administrative matters. Its activities include proceedings characterized by the significant and dynamic participation of the parties involved in the matters and cases in

question. This participation is crucial for the effectiveness of the obligations and measures ordered by the Court and establishes the pattern for the evolution and duration of the proceedings.

#### 1. *Public hearings on contentious cases*



Under the Court's contentious jurisdiction, the process of drafting a judgment includes several stages that combine both an oral and a written phase. The second stage, which is essentially oral, is the public hearing on each case which usually takes a day and a half. During this hearing, the Commission explains the grounds for the report under Article 50 of the Convention and for the submission of the case to the Court, as well as any other matter that it considers relevant for deciding the case. Then, the judges of the Court hear the witnesses, expert witnesses and alleged victims convened by an order, who are questioned by the parties and, if appropriate, by the judges. The

Commission may question certain expert witnesses in exceptional circumstances in accordance with Article 52(3) of the Court's Rules of Procedure. After this, the President gives the floor to the alleged victims or their representatives and to the defendant State so that they may present their arguments on the merits of the case. Subsequently, the President grants the presumed victims or their representatives and the State, respectively, the opportunity for a replication and a rejoinder. Once the arguments have been submitted, the Commission presents its final observations and then the judges ask their concluding questions to the parties.



## *2. Hearings and orders on monitoring compliance with judgment*

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The purpose of monitoring compliance with the Court's judgments is to reinforce compliance with the decisions and to promote conditions that facilitate fulfillment of the measures of reparation ordered by the Court.

To this end, when it considers pertinent, the Court convenes the State and the representatives of the victims to a hearing to monitor compliance with its decisions and, during the hearing, it also receives the opinion of the Commission. Furthermore, in some specific cases, in order to help the States comply with the reparations it has ordered, the Court has given guidelines with very clear and detailed criteria on the way in which the reparations ordered must be fulfilled.

The hearings on monitoring compliance with judgments have been held since 2007. Their implementation has produced very favorable results, because significant progress has been made in compliance with the reparations ordered by the Court. Once again, this has been recognized by the OAS General Assembly in its resolution AG/RES. 2759 (XLII-O/12) "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights" of June 5, 2012. The resolution emphasizes "that the private hearings held on the monitoring of compliance with the Court's judgments have been important and constructive and have yielded positive results."

During these hearings, which usually last around two hours, the State describes the progress it has made in complying with the obligations ordered by the Court in the judgment in question, and the representatives of the victims and the Inter-American Commission present their observations on the status of compliance in question. The parties also have their opportunity for a replication and a rejoinder. Lastly, the judges may question the parties.

Once again, in the context of these hearings, the Court tries to create agreements between the parties. Thus, it does not merely take note of the information they present, but, in keeping with the principles that inspire it as a Human Rights Court, it suggests alternatives for resolving problems, encourages compliance, brings attention to incidents of non-compliance due to lack of willingness, and encourages all those involved to work together to establish timetables for compliance.

## *3. Hearings and orders on provisional measures*

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The Court carries out an intense and permanent activity of monitoring compliance with the provisional measures it has ordered in the matters or cases in which it has ordered provisional measures. Thus, based on the reports forwarded by the States and the corresponding observations sent by the representatives of the beneficiaries and the Inter-American Commission, the Court evaluates the pertinence of convening those involved to a hearing in which they must explain the status of the measures adopted, or of issuing orders concerning the status of compliance with or implementation of the measures required.

During a hearing on provisional measures, which usually lasts around two hours, the representatives of the beneficiaries and the Inter-American Commission are given the opportunity of proving, as appropriate, the persistence of the situations that gave rise to the adoption of provisional measures, while the State must present information on the measures adopted in order to overcome the situations of extreme gravity and urgency and, at best, prove that the circumstances have ceased. The party that has requested the provisional

measures initiates the hearing by presenting their arguments on the constitution of the three conditions mentioned above, followed by the Inter-American Commission or the representatives of the beneficiaries, as applicable, and then the State presents its respective observations. Both the representatives and the Commission, and also the State are granted the opportunity for a replication and a rejoinder, respectively. Lastly, the judges may question those participating in the hearing.

#### 4. Adoption of judgments

The judge rapporteur of each case, with the support of the Court's Secretariat and based on the arguments and evidence provided by the parties, presents a draft judgment on the case in question to the Court in plenary session for its consideration. The judges deliberate based



on this draft judgment for several days during a session and, owing to its complexity, the deliberation may even be suspended and taken up again during the next session. During this deliberation, the draft judgment is discussed and gradually approved; when the operative paragraphs are reached, these are subject to a vote by the judges of the Court. In some cases the judges present dissenting or concurring opinions on the meaning of the judgment.

The result of this deliberation is the final and non-appealable judgment in the case.

In 2012, the Court held four regular sessions. In addition, it held two special sessions, one in Guayaquil, Ecuador, and the other at its seat. The details of these sessions appear below:

##### A. 94th Regular Session

The Court held its 94th Regular Session in San José, Costa Rica, from February 20 to March 2, 2012.<sup>4</sup> During this session, the Court held five public hearings on contentious cases, three private hearings on monitoring compliance with judgment, and also two public hearing and one private hearing on provisional measures. In addition, it handed down two judgments, and issued five orders on provisional measures six orders on monitoring compliance with judgment, one order on a request for interpretation of judgment, and an interlocutory decision in order to annul the requirement of final arguments owing to a friendly settlement agreement. The Court also received the visit of a delegation of judges from the African Court on Human and Peoples' Rights. The matters examined by the Court during this session are described below:

<sup>4</sup> The composition of the Court for this session was as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica) Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). Pablo Saavedra Alessandri (Chile), Secretary, and Emilia Segares Rodríguez (Costa Rica), Deputy Secretary, also took part in the session. In accordance with Articles 19 of the Court's Statute and 21 of the Court's Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.

## *Public hearings on contentious cases*

### **Case of Vélez Restrepo and family members (Colombia)**

On February 24, 2012, the Court heard the statements of two alleged victims and one expert witness proposed by the State. The Court also heard the final oral arguments of the alleged victims' representative and of the State, and also the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Vélez Restrepo and family members v. Colombia](#).

### **Case of Furlan and family members (Argentina)**

On February 27 and 28, 2012, the Court heard the testimony of one alleged victim and three expert witnesses, two of them proposed by the representatives of the alleged victim and one proposed by the Inter-American Commission. The Court also heard the final oral arguments of the representatives of the presumed victims and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Furlan and family members v. Argentina](#)

### **Case of Pacheco Teruel *et al.* (Honduras)**

On February 28 and 29, 2012, the Court heard the testimony of two alleged victims and two expert witnesses, one proposed by the representatives of the alleged victims and the other proposed by the Inter-American Commission. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Pacheco Teruel \*et al.\* v. Honduras](#)

### **Case of Palma Mendoza *et al.* (Ecuador)**

On March 1, 2012, the Court heard the testimony of two alleged victims, and of one expert witness proposed by the State. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Palma Mendoza \*et al.\* v. Ecuador](#)

### **Case of Castillo González *et al.* (Venezuela)**

On March 2, 2012 the Court heard the testimony of one of the alleged victims, a witness proposed by the State, and two expert witnesses, one proposed by the State and the other by the representatives of the presumed victims. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Castillo González \*et al.\* v. Venezuela](#)

## *Private hearings on monitoring compliance with judgment*

### **Case of Castañeda Gutman (Mexico)**

On February 20 2012, the Court held a private hearing in order to obtain information on the aspect pending compliance of the judgment delivered by the Court on August 6, 2008, and to

receive the corresponding observations of the victim's representatives and of the Inter-American Commission.

#### **Case of the Pueblo Bello Massacre (Colombia)**

On February 23, 2012, the Court held a private hearing in order to obtain information on the aspects pending compliance of the judgment delivered by the Court on January 31, 2006, and to receive the corresponding observations of the victims' representatives and of the Inter-American Commission.

#### **Medical and psychological care in nine Colombian cases (Colombia)**

On February 23, 2012, the Court held a private hearing in order to obtain information on compliance with the measure of reparation concerning the medical and psychological care ordered in favor of the victims and their next of kin in the following cases: *19 Tradesmen* (Judgment of July 5, 2004), *Mapiripán Massacre* (Judgment of September 15, 2005), *Gutiérrez Soler* (Judgment of September 12, 2005), *Pueblo Bello Massacre* (Judgment of January 31, 2006), *La Rochela Massacre* (Judgment of May 11, 2007), *Ituango Massacres* (Judgment of July 1, 2006), *Escué Zapata* (Judgment of July 4, 2007), *Valle Jaramillo* (Judgment of November 27, 2008) and *Cepeda Vargas* (Judgment of May 26, 2010). The Court also received the respective observations of the representatives of the victims and the Inter-American Commission.

### *Public hearings on provisional measures*

#### **Matter of Juan Almonte Herrera *et al.* (Dominican Republic)**

On February 23, 2012, the Court held a public hearing in order to receive information on the status of implementation of the provisional measures, and the arguments of the State, the representatives and the Inter-American Commission on the possible persistence of the situation of extreme gravity and urgency that gave rise to the adoption of the said measures in favor of the beneficiaries, in order to evaluate the need to maintain them. The video of this hearing is available at: [Matter of Almonte Herrera \*et al.\* with regard to the Dominican Republic](#)

#### **Matter of Gladys Lanza Ochoa (Honduras)**

On February 23, 2012, the Court held a public hearing in order to receive information from the representatives of the beneficiary and from the State on the implementation of the provisional measures ordered in this matter, as well as the corresponding observations of the Inter-American Commission. The video of this hearing is available at: [Matter of Lanza Ochoa with regard to the State of Honduras](#)

## *Private hearing on provisional measures*

### **Matter of L.M. (Paraguay)**

On February 20, 2012, the Court held a private hearing in order to receive information from the representatives of the beneficiary and the State, as well as the observations of the Inter-American Commission, on the implementation of the provisional measures ordered to protect the rights to personal integrity, protection of the family and identity of the child L.M. (identity kept confidential), allowing him to maintain ties with his biological family.

## *Judgments*

### **Case of Atala Riffo and daughters (Chile)**

On February 24, 2012, the Court delivered its judgment on merits, reparations and costs in this case ([Annex 8](#)), in which it declared that the domestic judicial decisions, under which the girls M., V. and R, were removed from Mrs. Atala's care and custody, had used abstract, stereotyped and/or discriminatory arguments in their reasoning. It therefore concluded that the said decisions constituted discriminatory treatment against Mrs. Atala, in violation of Articles 24 and 1(1) of the American Convention.

The Court reiterated the obligation of the States to respect and ensure, "without any discrimination," the full and free exercise of the rights and freedoms recognized in the American Convention. Thus, the Court established that sexual orientation and gender identity are categories protected by the American Convention under the expression "other social condition" in Article 1(1) of the Convention. Consequently, no norm, decision or practice of domestic law, either by State authorities or by private individuals, may in any way reduce or restrict the rights of a person based on his or her sexual orientation. Thus, the proscription of discrimination based on sexual orientation entails the obligation of all authorities and officials to guarantee that all persons, without discrimination based on their sexual orientation, can enjoy each and every right established in the Convention.

The Court also considered that the mere reference to the "best interests of the child" as a legitimate aim of the domestic decisions, without specifically proving any risk for the children, could not be considered an appropriate reason for restricting a protected right such as that of being able to exercise all human rights without any discrimination.

Regarding the judicial proceedings on custody, the Inter-American Court clarified that it does not perform the functions of a court of "fourth instance," and, therefore, it is not incumbent on the Court to establish whether the mother or the father of the three girls would offer them a better home, assess evidence for this specific purpose, or decide on custody, aspects that were outside the purpose of the case.

In the judgment, the Court declared that Chile was internationally responsible for having violated the following rights recognized in the American Convention in relation to Article 1(1) thereof: (i) the right to equality and non-discrimination established in Article 24; (ii) the right to privacy established in Article 11(2) of Karen Atala; (iii) the right to family life recognized in Articles 11(2) and 17(1), to the detriment of Karen Atala and the three girls; (iv) the right to be heard established in Article 8(1), in relation to Articles 19 and 1(1), and (v) the guarantee of impartiality established in Article 8(1) in relation to the disciplinary investigation. Nevertheless, the Court declared that the State had not violated the judicial

guarantee of impartiality established in Article 8(1) of the American Convention, in relation to the decisions of the Supreme Court of Justice and the Villarrica Juvenile Court.

Regarding reparations, the Court ordered the State to undertake the following measures of reparation: (1) provide adequate and effective medical and psychological or psychiatric care, immediately, through its specialized public health institutions to the victims who request this; (2) publish the official summary of the judgment, once, in the official gazette, and in a national newspaper with widespread circulation, and the entire judgment on an official website; (3) organize a public act to acknowledge international responsibility for the facts of the case; (4) continue implementing, within a reasonable time, permanent education and training programs and courses for public officials at the regional and national level and, particularly, for judicial officials in all areas and at all echelons of the Judiciary, and (5) pay specific amounts as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, as appropriate.

### **Case of González Medina and family members (Dominican Republic)**

On February 27, 2012, the Inter-American Court delivered its judgment on preliminary objections, merits, reparations and costs in this case ([Annex 9](#)), in which it determined that what had happened to Mr. González Medina was an enforced disappearance. Consequently, the Court concluded that the Dominican Republic had violated the right to personal liberty, personal integrity, life and juridical personality of Mr. González Medina. In particular, the Court found that, in this case it had been verified that Narciso González Medina was detained on May 26, 1994, and was in State custody that night and in the days following his disappearance, and that 17 years and 9 months after his detention, his whereabouts were unknown, which is contrary to Article 7 of the American Convention. The Court also considered it reasonable to presume that Mr. González Medina had suffered physical and psychological ill-treatment while he was in State custody, which was aggravated by the lack of attention to his epilepsy, so that the Court concluded that Narciso González Medina suffered cruel, inhuman or degrading treatment, which constituted a violation of Article 5(1) and 5(2) of the American Convention. In addition, the Court considered that, owing to the nature of enforced disappearance, the victim was in a situation of increased vulnerability, which signified a violation of his right to life, recognized in Article 4 of the Convention. In addition, the Court considered that Narciso González Medina was placed in a situation of legal uncertainty, which meant that it was impossible for him to hold or exercise any of his rights effectively, which violated his right to juridical personality, recognized in Article 3 of the American Convention.

The Court also concluded that owing to the absence of an effective investigation into the facts, the prosecution and punishment, as appropriate, of those responsible, the State failed to comply with its obligation to guarantee the rights recognized in Articles 7, 5(1), 5(2), 4(1) and 3 of the American Convention, in relation to Articles 1(1) and 2 thereof and to Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Narciso González Medina, as well as the rights to judicial guarantees and to judicial protection, established in Articles 8(1) and 25(1) of the American Convention, in relation to Article 1(1) thereof and to Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Luz Altigracia Ramírez, and of Ernesto, Rhina Yocasta, Jennie Rosanna and Amaury, all González Ramírez, members of the victim's family.

The Court concluded that the State had failed to disprove the presumption based on which it is understood that, in cases of enforced disappearance, the violation of the right to mental and moral integrity of the victim's next of kin is a direct result of this phenomenon, which causes them severe suffering due to the act itself. In addition, the Court verified that Luz

Altagracia Ramírez and her children had endured great uncertainty and profound suffering and anguish that affected their physical, mental and moral integrity owing to the enforced disappearance of Mr. González Medina, which was aggravated by the actions of the State authorities in relation to the investigation of what happened. Consequently, the Court concluded that the State violated the right to personal integrity recognized in Article 5(1) and 5(2) of the American Convention, in relation to Article 1(1) of this instrument, to the detriment of Luz Altagracia Ramírez, Ernesto González Ramírez, Rhina Yokasta González Ramírez, Jennie Rosanna González Ramírez and Amaury González Ramírez.

Lastly, the Court ordered the Dominican Republic to adopt the following measures of reparation: (1) to continue and conduct the necessary investigations and proceedings in order to establish the truth of the facts, as well as to determine and to punish, as appropriate, those responsible; (2) to carry out a genuine search to determine the whereabouts of Narciso González Medina; (3) to provide medical and psychological or psychiatric care to the victims who request this; (4) to publish the official summary of the judgment in the official gazette and in a national newspaper with widespread circulation, and the entire judgment on an official website; (5) to hold a public act to acknowledge international responsibility for the facts of the case; (6) to place a commemorative plaque in the Narciso González Cultural Center, alluding to this judgment, the facts of the case, and the circumstances in which they occurred; (7) to make an audiovisual documentary on the life of Narciso González Medina, referring to his journalistic, literary and creative work, and also to his contribution to Dominican culture; (8) to guarantee that the application of the provisions of domestic law and the functioning of its institutions permit an adequate investigation to be conducted into the enforced disappearance and, if they are insufficient, to make the legislative reforms or adopt the other measures required to achieve this objective, and (9) to pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses, as well as to reimburse the Victims' Legal Assistance Fund of the Inter-American Court the amount established in the judgment.

### *Orders on provisional measures*

During this session, the Court issued five orders on provisional measures: *Matter of the Jiguamiandó and the Curbaradó Communities* with regard to Colombia ([Annex 10](#)); *Case of Fernández Ortega et al.* with regard to Mexico ([Annex 11](#)); *Matter of Haitians and Dominicans of Haitian Origin in the Dominican Republic* with regard to Dominican Republic ([Annex 12](#)); *Case of De La Cruz Flores* with regard to Peru ([Annex 13](#)); *Matter of Martínez Martínez et al.* with regard to Mexico ([Annex 14](#)).

### *Orders on monitoring compliance*

During this session, the Court issued six orders on monitoring compliance with judgment in the following cases: *Caballero Delgado and Santana v. Colombia* ([Annex 15](#)); *Kawas Fernández v. Honduras* ([Annex 16](#)); *Vera Vera et al. v. Ecuador* ([Annex 17](#)); *Juan Humberto Sánchez v. Honduras* ([Annex 18](#)); *Garibaldi v. Brazil* ([Annex 19](#)); *El Amparo v. Venezuela* ([Annex 20](#)).

## Other orders

### Case of Grande (Argentina)

On February 22, 2012, the Court issued an order on the request for interpretation of the judgment on the preliminary objections and merits in this case ([Annex 21](#)), in which it declared that the Commission's brief in relation to this case was inadmissible.

### Case of Pacheco Teruel et al. (Honduras)

During the public hearing, the State and the victims' representatives advised the Inter-American Court that they had signed a friendly settlement agreement. Under the agreement, the State undertook to adopt different measures of reparation. In this regard, the Court, in an order of February 29, 2012 ([Annex 22](#)), considering the friendly settlement agreement submitted to the Court by the parties, determined that the presentation of final written arguments and observations was unnecessary.

## Meetings with authorities

From February 27 to March 2, 2012, the Court received the visit of a delegation of judges from the African Court on Human and Peoples' Rights composed on Judge Augustino Ramadhani (Tanzania), Judge Duncan Tambala (Malawi), Judge Sylvain Ore (Côte d'Ivoire), Judge Thompson Elsie (Nigeria) and Nzamwita Gakumba (Rwanda). The African judges were invited by the Inter-American Court for an exchange of experiences and challenges between the two courts to enhance the protection of human rights. The judges of the Inter-American Court explained the evolution of their work and its impact. For their part, the judges of the African Court described the evolution of the Court and the challenges it faced in future. It was agreed to hold further meetings of this type in order to continue sharing ideas and experiences in the future. On this occasion, the members of the African Court were able to attend a public hearing in the case of *Furlan and family v. Argentina*.





## B. 45th Special Session of the Court



The Court held its 45th Special Session from April 23 to 27, 2012, in Guayaquil, Ecuador.<sup>5</sup> During this session, the Court held three public hearings and delivered two judgments, as well as three orders on provisional measures. The Court also offered a seminar entitled “The case law of the Inter-American Court of Human Rights: current issues.” The matters examined by the Court during this

session are described below:

### *Public hearings on contentious cases*

#### **Case of the Massacres of El Mozote and nearby places (El Salvador)**

On April 23, 2012, the Court heard three statements and two expert opinions, proposed by the representatives of the alleged victims. The Court also heard the final oral arguments of the alleged victims’ representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of the Massacre of El Mozote and nearby places v. El Salvador](#)

#### **Case of Gudiel Álvarez et al. (“Diario Militar”) (Guatemala)**

On April 25, 2012, the Court heard the statements of two alleged victims and one expert witness proposed by the representatives of the alleged victims, and of one witness proposed by the State. The Court also heard the final oral arguments of the alleged victims’ representatives and of the State, as well as the final oral observations of the Inter-American Commission. The video of this hearing is available at: [Case of Gudiel Álvarez et al. \(Diario Militar\) v. Guatemala](#)

#### **Case of García and family members (Guatemala)**

On April 26, 2012, the Court heard the statement of one alleged victim and one witness, both proposed by the representatives of the alleged victims. The Court also heard the final oral arguments of the alleged victims’ representatives and of the State, as well as the final oral observations of the Inter-American Commission. The video of this hearing is available at: [Case of García and family members v. Guatemala](#)

<sup>5</sup> For this special session, the Court was composed as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica) were also present. In accordance with Articles 19 of the Court’s Statute and 21 of the Court’s Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.

## Judgments

### Case of Fornerón and daughter (Argentina)

On April 27, 2012, the Court delivered its judgment on merits reparations and costs in this case ([Annex 23](#)), in which it established several criteria for the protection of the rights of children in judicial proceedings that involve them, and on the international obligations assumed by the State in these cases, which require the diligent and effective adoption of special measures of protection. Among other conclusions, the Court found that the custody proceedings and visiting regime had not complied with the guarantee of a reasonable time and that the latter had not been conducted with due diligence. The Court also found that Mr. Fornerón had not been provided with adequate judicial remedies and that his right, as well as that of his daughter, to the protection of the family had been violated.

In addition, the Court referred to the obligation to adopt all necessary domestic measures to prevent the “sale” of children whatever the purpose or the means used. Thus, the Court considered that punishment under the criminal justice system is one of the appropriate ways to protect certain legal rights, and that the handing over of a child in exchange for remuneration or any other form of payment clearly affects fundamental legal rights, such as the child’s right to liberty and to personal integrity and dignity, and results in one of the most serious abuses of a child, whose situation of vulnerability has been taken advantage of by adults.

Based on the foregoing, the Inter-American Court of Human Rights concluded that the State was responsible for: (a) the violation of the rights to judicial guarantees and judicial protection, in relation to the rights of the family and the obligation to respect rights, to the detriment of Mr. Fornerón and of his daughter, as well as in relation to the rights of the child to the detriment of the latter; (b) the violation of the rights of the family, in relation to the rights to judicial protection and judicial guarantees, and the obligation to respect rights to the detriment of Mr. Fornerón and of his daughter, as well as in relation to the rights of the child to the detriment of the latter, and (c) non-compliance with the obligation to adapt domestic law, in relation to the obligation to respect rights and to the right to judicial guarantees and judicial protection, to the detriment of Mr. Fornerón and of his daughter, as well as in relation to the rights of the child to the detriment of the latter.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) immediately establish a procedure designed to create effective ties between Mr. Fornerón and his daughter; (2) verify that the conduct of certain officials who intervened in the different domestic proceedings was in keeping with the law and, if appropriate, establish the corresponding responsibilities; (3) adopt all necessary measures to criminalize the sale of children; (4) implement a compulsory program or course for agents of justice of the province of Entre Ríos involved in the administration of juvenile justice; (5) publish the official summary of the judgment; (6) pay specific amounts for compensation of pecuniary and non-pecuniary damage, for reimbursement of costs and expenses, and to reimburse the Victims’ Legal Assistance Fund, and (7) provide the Court with a report on the measures taken to comply with each aspect of the judgment.

### Case of Pacheco Teruel *et al.* (Honduras)

On April 27, 2012, the Court delivered its judgment on merits, reparations and costs in this case ([Annex 24](#)), which originated in the fire that occurred in cell block No. 19 of the San Pedro Sula Prison, Honduras, on May 17, 2004, and established that the detention conditions

of the inmates who died during the fire were contrary to human dignity and resulted from a context of serious structural shortcomings in the prison. The Court added that the said shortcomings had been aggravated by the increase in overcrowding resulting from the “zero tolerance” policies to combat violence.

The Court also included considerations on the State’s obligation of prevention in relation to the prison conditions and on the standards that the State must ensure to persons deprived of liberty. The Court also established that the States, in their capacity as guarantors, must design and apply a prison policy that prevents critical situations which jeopardize the fundamental rights of the inmates, and indicated the minimum standards that such a policy should include.

Given the State’s acknowledgement of international responsibility, the Court declared the State internationally responsible for the following violations: (a) violation of the right to life and to personal integrity of the 107 persons deprived of liberty who died, because it failed to comply with the obligation to guarantee detention conditions compatible with human dignity and because of their subsequent death; (b) violation of the right to integrity and to personal liberty of 22 of the deceased inmates who were in pre-trial detention for the offense of unlawful association, because they were in the same cell as individuals who had already been tried and convicted; (c) violation of the right to personal integrity, and to judicial guarantees and protection of 83 family members of 18 of the victims, owing to the suffering caused by the ill-treatment experienced by the deceased inmates during the fire and the delay in the identification and claim procedures at the morgue, as well as owing to the lack of due diligence in the investigation of the facts, and (d) violation of the principle of legality, because the reform of article 332 of the Honduran Criminal Code did not specify the elements of an action that were considered punishable, which meant that these elements were determined in an arbitrary and discretionary manner by the authorities responsible for application of this article and this, in turn, resulted in arbitrary detentions based on the said norm.

Lastly, the Court ordered the State, to undertake the following measures of reparation: (1) notify the beneficiaries of the measures of reparation established in the friendly settlement agreement as appropriate; (2) adopt any necessary legislative, administrative or other measures to make substantial improvements in prison conditions, adapting them to international standards, in order to prevent, especially, fires and other critical situations, and also to avoid overpopulation and overcrowding; (3) implement immediate measures to guarantee the fundamental rights of the prisoners, and also measures to prevent emergencies in the different prisons indicated in the agreement; (4) forward a report on the urgent measures adopted to ensure the fundamental rights of the inmates, as well as the measures to prevent fires and other catastrophes in the four prison indicated in the friendly settlement agreement; (5) adopt the legislative measures established in the friendly settlement agreement and endorsed by the Court; (6) make the corresponding publications of the judgment; (7) implement training programs for civilian and police personnel in the prisons, and emergency and evacuation plans in case of fire or other catastrophe; (8) provide medical and psychological attention to the victims’ next of kin who request this, and make the corresponding announcements; (9) hold a public act to acknowledge international responsibility; (10) investigate the facts of this case in order to clarify them, determine the truth, and the corresponding criminal, administrative and/or disciplinary responsibilities, and apply the punishments and consequences established by law; (11) pay the amounts established in the friendly settlement agreement as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, and (12) provide the Court with a report on the measures adopted to comply with each aspect of the judgment.

## Orders on provisional measures

During this session, the Court issued three orders on provisional measures: *Matter of the Socio-educational Internment Facility with regard to Brazil* ([Annex 25](#)); *Matter of L.M. with regard to Paraguay* ([Annex 26](#)); *Matter of Wong Ho Wing with regard to Peru* ([Annex 27](#)).

## Academic activities

On April 24, 2012, lawyers from the Inter-American Court offered a seminar entitled "The case law of the Inter-American Court of Human Rights: current issues." The seminar was held at the *Universidad Católica Santiago de Guayaquil*. The following topics were examined during the seminar: (a) control of conformity with the Convention; (b) right to personal integrity, and (c) rights of indigenous peoples.

## C. 95th Regular Session

The Court held its ninety-fifth regular session in San José, Costa Rica, from June 18 to 28, 2012.<sup>6</sup> During this session the Court held four public hearings on contentious cases, and two private hearings on monitoring compliance with judgment. In addition, the Court issued three judgments, four orders on provisional measures, eight orders on monitoring compliance with judgment. It also received a visit of members of the Third Section of the Colombian Council of State. The matters examined by the Court during this session are described below:

### Public hearings on contentious cases

#### Case of the Río Negro Massacres (Guatemala)

On June 19 and 20, 2012, the Court heard the statements of two alleged victims and the opinions of one expert witness proposed by the representatives of the alleged victims, and one expert witness proposed by the Inter-American Commission. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of the Río Negro Massacres v. Guatemala](#)

#### Case of Mohamed (Argentina)

On June 20 and 21, 2012, the Court heard the opinions of two expert witnesses, one proposed by the Inter-American Commission and the other by the representatives of the alleged victim. The Court also heard the final oral arguments of the alleged victim's

<sup>6</sup> For this session, the Court was composed as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica) were also present. In accordance with Articles 19 of the Court's Statute and 21 of the Court's Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.

representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Mohamed v. Argentina](#)

#### **Case of Nadege Dorzema (Guayubín Massacre) (Dominican Republic)**

On June 21 and 22, 2012, the Court heard the statements of two of the alleged victims. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of Nadege Dorzema v. Dominican Republic](#)



#### **Case of the Santo Domingo Massacre (Colombia)**

On June 27 and 28, 2012, the Court heard the statements of two of the alleged victims, one witness proposed by the State, and one expert witness proposed by the Inter-American Commission and the representatives of the alleged victims. The Court also heard the final oral arguments of the representatives and of the State, as well as the observations of the Inter-American Commission. The video of this hearing is available at: [Case of the Santo Domingo Massacre v. Colombia](#)

### *Private hearings on monitoring compliance with judgments*

#### **Case of the Moiwana Community (Suriname)**

On June 22, 2012, the Court held a private hearing in order to receive from the State complete and updated information on compliance with the measures of reparation ordered in the judgment delivered by the Court on June 15, 2005, as well as the observations of the representatives of the victims, and of the Inter-American Commission.

#### **Case of Radilla Pacheco (Mexico)**

On June 22, 2012 the Court held a private hearing in order to receive from the State complete and updated information on compliance with the measures of reparation ordered in the judgment delivered by the Court on November 23, 2009, as well as the observations of the representatives of the victims, and of the Inter-American Commission.

### *Judgments*

#### **Case of Barbani Duarte (Uruguay)**

On June 26, 2012, the Court delivered a judgment in which it rejected the request for interpretation of the judgment on merits, reparations and costs in this case ([Annex 28](#)), delivered by the Court on October 13, 2011, considering inadmissible the intention to exclude as victims, three persons declared as such in the said judgment. The request for interpretation was submitted by Alicia Barbani Duarte and María del Huerto Breccia, victims and representatives of some of the victims in this case.

### Case of Díaz Peña (Venezuela)

On June 26, 2012, the Court delivered its judgment on preliminary objection, merits, reparations and costs in this case ([Annex 29](#)), in which it admitted the preliminary objection of failure to exhaust domestic remedies in relation to the preventive detention and the duration of the proceedings, considering that the requirement of prior exhaustion of domestic remedies established in Article 46(1)(a) of the American Convention had not been met. The Court established that, when the initial petition was forwarded to the State by the Commission on February 23, 2007, the decision of May 11, 2007, which had supposedly exhausted the domestic remedies, had not been issued. Furthermore, the Court considered that it could not be considered that domestic remedies had been exhausted by the requests filed by Mr. Díaz Peña's defense counsel during the criminal proceedings underway at the time. The appropriate remedy was to appeal the judgment that was delivered at the end of the proceedings, but Mr. Díaz Peña expressly renounced filing this remedy.

Conversely, the Court rejected the preliminary objection filed by the State with regard to the detention conditions and the deterioration in Mr. Díaz Peña's health. In this regard, the Court indicated that Raúl José Díaz Peña had remained detained from February 25, 2004, until May 13, 2010, in the Pre-trial Detention Center, and that the detention conditions were extremely deficient, among other reasons, owing to the lack of access to natural light and ventilation, and the limited time allowed outside, as well as being locked up at night and the consequent restrictions in access to the only available latrine. In addition, it established that medical services were not provided in a timely, adequate and complete manner, contributing to the progressive deterioration in his health. Consequently, the Court considered that Mr. Díaz Peña's detention conditions did not meet the minimum requirements of decent treatment and, therefore, concluded that the State of Venezuela was internationally responsible for the violation of the right to personal integrity and for inhuman and degrading treatment to the detriment of Raúl José Díaz Peña.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) publish the official summary of the judgment, as well as the judgment in its entirety; (2) adopt the necessary measures to ensure that the detention conditions in the Pre-Trial Detention Center of the former General Directorate of Prevention and Intelligence Services (DISIP), currently Bolivarian Intelligence Service (SEBIN), located in El Helicoide, Caracas, Venezuela, were adapted to the relevant international standards, and (3) pay specific amounts as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses.

### Case of the Kichwa Indigenous People of Sarayaku (Ecuador)

On June 27, 2012, the Court delivered its judgment on merits and reparations in this case ([Annex 30](#)), in which it determined the international responsibility of the State because it failed to conduct a prior, free and informed consultation, in keeping with international standards, in violation of the rights of the Sarayaku People to indigenous communal property and cultural identity, as well as for not having granted them effective judicial protection, and for having endangered the life and personal integrity of the Sarayaku People due to the presence of powerful explosives on their territory.

It should be stressed that the State made an acknowledgement of international responsibility and manifested its commitment to and interest in seeking forms of reparations. The Court noted that the State made its acknowledgement of responsibility in broad and general terms; it granted full effect to this acknowledgement and assessed it positively owing to its

significance for the inter-American system for the protection of human rights; in particular, because it was made on Sarayaku territory.

The facts of this case refer to a series of acts and omissions by the State, because it had permitted a private oil company to carry out oil exploration activities on the territory of the Sarayaku People since the end of the 1990s, without having ensured their right to prior, free and informed consultation.

The Court established that the obligation to consult indigenous and tribal peoples and communities with regard to any administrative or legislative measure that affects their rights, recognized in both domestic and international law, entails the obligation of the State to organize the whole governmental apparatus and the structures through which public powers are exercised, in particular its norms and institutions, so that consultations can be conducted effectively and in keeping with the relevant international standards. Thus, States must incorporate these standards into prior consultation processes, from the initial stages of the elaboration or planning of the proposed measure, so as to set up mechanisms for sustained, effective and reliable discussions with the indigenous peoples on the procedures for consultation and participation through their representative institutions. Therefore, as appropriate, the State must also monitor and control application of such mechanisms and, when pertinent, take effective measures to protect this right through the corresponding judicial organs.

The Court analyzed the facts, recalling some of the essential elements of the right to consultation and concluded that the State had “not carried out any form of consultation with the Sarayaku, at any of the phases of execution of the oil exploration activities and through their own institutions and representative bodies.” It concluded that certain actions taken by the company that the State authorities tried to endorse as forms of consultation, were not forms of consultation. In this regard, it established that to be considered as such, the prior consultation must be conducted in good faith and in a satisfactory, accessible and informed manner. Thus, it considered that the absence of consultation by the State had encouraged a climate of tension and dispute, division and confrontation among the indigenous communities of the area, in particular with the Sarayaku People. In addition, the environmental impact plan was prepared without the participation of the People, by a private entity subcontracted by the oil company and with no State control, and without taking into account the social, spiritual and cultural impact that the planned activities would have on Sarayaku. In addition, sites of special cultural significance were harmed, so that the absence of consultation also affected their cultural identity.

Consequently, the Court determined that the State was responsible for the violation of the right to communal property of the Sarayaku People, in relation to the right to cultural identity and the obligations to respect rights and adopt domestic legal provisions. In addition, since it had not fully deactivated the risk created by the introduction of explosives onto the territory, the State was responsible for having seriously jeopardized the rights to life and to personal integrity of the its members. In addition, the Court found that the State authorities had not acted with due diligence in relation to the different complaints of alleged abuse and threats to members of the Sarayaku People and that the State had not guaranteed them effective judicial protection, because the application for *amparo* filed, and a precautionary measure issued by a domestic judge, were not effective.

Lastly, with regard to reparations, the Court ordered to the State to: (1) neutralize, deactivate and, as appropriate, remove the pentolite on the surface and buried on the territory of the Sarayaku People, based on a process of consultation with the People; (2) consult with the Sarayaku People, previously, adequately, effectively and in keeping with the

relevant international standards, should it be intended to implement any activity or project to extract natural resources from their territory, or any investment or development plan of any kind that could adversely affect their territory; (3) adopt the necessary legislative, administrative or any other measures to implement fully and make effective the right to prior consultation of the indigenous and tribal peoples and communities, ensuring the participation of the communities; (4) implement compulsory programs or courses that include a module on the national and international human rights standards of the indigenous peoples and communities for military, police and judicial officials, as well as other officials whose functions bring them into contact with indigenous peoples; (5) carry out a public act to acknowledge international responsibility for the facts of the case; (6) publish the judgment, and (7) pay the amounts established as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses.

### *Orders on provisional measures*

During this session, the Court issued four orders on provisional measures: *Case of the 19 Tradesmen* with regard to Colombia ([Annex 31](#)); *Matter of Gladys Lanza Ochoa* with regard to Honduras ([Annex 32](#)); *Case of González Medina and family members* with regard to Dominican Republic ([Annex 33](#)), and *Matter of Wong Ho Wing* with regard to Peru ([Annex 34](#)).

### *Orders on monitoring compliance*

During this session, the Court issued eight orders on monitoring compliance with judgment: *Case of Lori Berenson v. Peru* ([Annex 35](#)); *Case of Escher v. Brazil* ([Annex 36](#)); *Case of Heliodoro Portugal v. Panama* ([Annex 37](#)); *Case of Bayarri v. Argentina* ([Annex 38](#)); *Case of Mejía Idrovo v. Ecuador* ([Annex 39](#)); *Case of the 19 Tradesmen v. Colombia* ([Annex 40](#)); *Case of Radilla Pacheco v. Mexico* ([Annex 41](#)), and *Case of Baena Ricardo et al. v. Panama* ([Annex 42](#)).

### *Meetings with authorities*

From June 20 to 22, 2012, the Court received a visit of a delegation of the Third Section of the Colombian Council of State, composed of Mauricio Farjado Gomez, Enrique Gil Botero, Danilo Alfonso Rojas Betancourth, Jaime Orlando Santofimio Gamboa, Ruth Stella Correa Palacio and Olga Valle de la Hoz, who attended several hearings and held a working meeting with all the Court's Judges. During the meeting, information and opinions were exchanged on the tools used by the Court to determine reparations. The members of the Council of State revealed their openness to establishing reparations that are not of a financial nature, as well as the influence that the Inter-American Court's case law has had in this regard. For its part, the Court highlighted the way in which the Council of State establishes financial reparations. Furthermore, it was agreed that this dialogue and exchange of experiences should developed further and also the need to continue carrying out joint activities in the future.



### *D. 96th Regular Session*

The Court held its 94th Regular Session in San José, Costa Rica, from August 27 to September 7, 2012.<sup>7</sup> During this session the Court held two public hearings on contentious cases and one on monitoring compliance with judgment. It also issued five judgments, nine orders on provisional measures, and four orders on monitoring compliance. In addition, the Court, together with the Human Rights Center of the Universidad de Chile, offered a training course for the Inter-American Association of Public Defenders. The Court also received the visit of a delegation of judges from the European Court of Human Rights. The matters examined by the Court during this session are described below:

#### *Public hearings on contentious cases*

##### **Case of Mendoza *et al.* (Argentina)**

On August 30, 2012, the Court received during a public hearing the statement of one alleged victim and the opinions of two expert witnesses proposed by the representative of the alleged victims and the Inter-American Commission on Human Rights, respectively. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the final observations of the Inter-American Commission. The video of this hearing is available at: [Case of Mendoza \*et al.\* v. Argentina.](#)

##### **Case of Artavia Murillo *et al.* ("In vitro fertilization") (Costa Rica)**

On September 5 and 6, 2012, the Court received during a public hearing the statements of two alleged victims proposed by the representatives of the alleged victims, two expert witnesses proposed by the Inter-American Commission and two expert witnesses proposed by the State. The Court also heard the final oral arguments of the alleged victims' representatives and of the State, as well as the final observations of the Inter-American Commission. [Case of Artavia Murillo \*et al.\* \(In vitro fertilization\) v. Costa Rica](#)

#### *Public hearing on monitoring compliance with judgment*

##### **Case of Barrios Altos (Peru)**

On August 27, 2012, the Court held a public hearing on monitoring compliance with the judgments on merits and on reparations and costs delivered by the Court on March 14 and November 30, 2001, respectively, in order to receive from the State detailed updated information on compliance with the measures of reparation ordered in this case that remain pending, and to receive the observations of the victims' representatives and the opinion of the Inter-American Commission. The video of this hearing is available at: [Case of Barrios Altos v. Peru](#)

<sup>7</sup> For this session, the Court was composed as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica) were also present. In accordance with Articles 19 of the Court's Statute and 21 of the Court's Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.

## *Judgments*

### **Case of Furlan and family members (Argentina)**

On August 31, 2012, the Court delivered its judgment on the preliminary objections, merits, reparations and costs in this case ([Annex 43](#)), in which it declared that the Argentine State was internationally responsible for the violation of various rights to the detriment of Sebastián Furlan and members of his family

The Court determined that, when he was 14 years of age, Sebastián Furlan had suffered an accident while on a property owned by the Argentine Army near his home. While the minor was playing on this property, he tried to hang from a beam and, as a result, this piece of wood, weighing approximately 45 to 50 kilograms, fell on him, hitting his head hard and knocking him out. The accident had a series of physical and mental consequences for Sebastián Furlan.

On December 18, 1990, his father, Danilo Furlan, filed a civil complaint against the State in order to claim compensation for the losses due to the disability resulting from his son's accident. On September 7, 2000, the court established that the damage caused to Sebastián Furlan was a result of negligence on the part of the State, as owner and entity responsible for the property. The payment of compensation ordered in the judgment was included in Law 23,982 of 1991, which structured the funding of obligations arising from cases or entitlements prior to April 1, 1991, that consisted in the payment of sums of money. This compensation was paid to Sebastián Furlan in funding bonds maturing in 16 years, and they were sold almost immediately after they were received. This meant that Sebastián Furlan received only 33% of the nominal value of the compensation granted.

In the judgment, the Court took into account the social approach to disability, which means that disability is not defined exclusively by the presence of a physical, mental, intellectual or sensorial deficiency, but rather the latter is interrelated with the social barriers or constraints that exist for the individual to be able to exercise his rights effectively.

The Court also established that the judicial authorities in charge of the civil proceedings for damages and the payment of compensation, exceeded a reasonable time, because they did not act with due diligence or observe the promptness called for by Sebastián Furlan's situation of vulnerability. In addition, Sebastián Furlan's right to be heard was not respected, and the "adviser for minors and persons with disabilities" did not intervene, which is a guarantee established in domestic law for this type of case. All the above entailed the violation of the right to judicial guarantees.

The Court also indicated that the execution of the judgment granting compensation to Sebastián Furlan was not effective and gave rise to his lack of judicial protection, because the administrative authorities never took into consideration that the application of the method of payment established in Law 23,982 of 1991 reduced excessively the financial contribution that Sebastián Furlan received for appropriate rehabilitation and improved living conditions, based on his vulnerable situation.

Furthermore, the Court declared the violation of the right to property, because it considered that, in the specific circumstances of this case, the failure to make the complete payment of the amount established by the courts in favor of a poor person in a vulnerable situation requires a much greater justification of the restriction of the right to property as well as some type of measure to prevent an excessively disproportionate effect.

The Court also established that a *de facto* discrimination existed associated with the violations of judicial guarantees, judicial protection, and the right to property. In addition, taking into account the impact that the denial of access to justice had on the possibility to accede to adequate rehabilitation and health care, the Court considered that the violation of Sebastián Furlan's right to personal integrity had been proved.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) provide the victims who request this, with adequate and effective medical and psychological or psychiatric treatment, immediately and free of charge, through its specialized public health institutions; (2) create an interdisciplinary group, which, taking into account Sebastián Furlan's opinion, will determine the measures of protection and assistance that would be most appropriate for his social, educational, vocational and employment integration; (3) publish the official summary of the judgment, once, in the official gazette and in a national newspaper with widespread circulation, and the entire judgment on an official website; (4) adopt the necessary measures to ensure that as soon as a person is diagnosed with serious problems or aftereffects related to disability, they or their family are given a charter of rights that summarizes, clearly and accessibly, the benefits established in Argentine law, and (5) pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage, to reimburse costs and expenses, and also to reimburse the Victims' Legal Assistance Fund the amount established in the judgment.

#### Case of Palma Mendoza (Ecuador)

On September 3, 2012, the Court delivered its judgment on the preliminary objection and the merits in this case ([Annex 44](#)), in which it declared that it had not been proved that the State's conduct had resulted in the violation of the rights to judicial guarantees and protection of the next of kin of Marco Bienvenido Palma Mendoza. In this regard, it noted that the State had determined what had happened and had convicted three individuals as perpetrators of the events investigated. The State had also investigated the possible criminal responsibility of other individuals, who were initially indicted in the criminal proceedings, although the case against them was then dismissed based on the assessment of the evidence obtained during the investigation. Consequently, the Inter-American Court determined that the State had not violated the rights established in Articles 8 and 25 of the American Convention in relation to its Article 4, all in relation to Article 1(1) of this treaty. The Court also determined that the State was not responsible for the alleged violation of the right to personal integrity, established in Article 5 of the American Convention, because the violation of the rights to judicial guarantees and protection had not been proved.

#### Case of Vélez Restrepo and family (Colombia)

On September 3, 2012, the Court delivered its judgment on the preliminary objection, merits and reparations and costs in this case ([Annex 45](#)), in which it admitted Colombia's partial acknowledgement of responsibility and rejected the preliminary objection filed by the State. Taking this acknowledgement into account, the Court determined that the State was responsible for the attack on the journalist Luis Gonzalo Vélez Restrepo by members of the Army on August 29, 1996, while he was filming a protest against the government policy of fumigating the coca crop in the department of Caquetá, Colombia, and that this constituted a violation of the right to personal integrity of Luis Gonzalo Vélez Restrepo, his wife, Aracelly Román Amariles, and his children, Mateo and Juliana Vélez Román. The Court also determined that the said attack constituted a violation of Mr. Vélez Restrepo's right to freedom of thought and expression, because it was perpetrated while he was engaged in his work as a cameraman for a national news program, and it was intended to prevent him from continuing to film the events that were happening there and from broadcasting the images

that he had filmed. The Court indicated that, even though the images filmed by Mr. Vélez Restrepo were finally broadcast, this was because, despite the blows he received, he did not let go of the video camera or the tape.

The Court also determined that the State was responsible for acts of harassment and threats following the attack of August 29, 1996, as well as for the attempt to arbitrarily deprive Mr. Vélez Restrepo of his liberty on October 6, 1997, which entailed a violation of the right to personal integrity of Mr. Vélez Restrepo, his wife, Aracelly Román Amariles, and his children, Mateo and Juliana Vélez Román.

Furthermore, the Court declared that the State had failed to comply with its obligation to guarantee the family's right to personal integrity by investigating the threats and harassment and adopting timely measures of protection before the said attempted deprivation of liberty. The Court indicated that these facts and the failure to comply with the said obligations made them feel very insecure and with a well-founded fear that their life and personal integrity were at risk of being violated if they remained in Colombia, which led to their exile; thus constituting a violation of their right to freedom of movement and residence. . In addition, the Court considered that there had also been a violation of the rights of the family because the members of the Vélez Restrepo family had to be separated for almost a year, since Mr. Vélez Restrepo had to leave the country first and his wife and children had to wait for the approval of their asylum requests in order to be able to leave Colombia and join Mr. Vélez Restrepo. The Court determined that these facts violated, in particular, the right of the children, Mateo and Juliana, to live with their family. In addition, the Court determined that the fact that Mr. Vélez Restrepo had to leave Colombia restricted his professional activities in the field of journalism, because he was unable to exercise them under similar conditions to those he had in Colombia when he worked for a national news program.

Taking into account the acknowledgement of international responsibility, the Court declared that the State had failed to comply with its obligation to conduct effective and diligent investigations into the said acts of violence, threats and harassment and the attempted deprivation of liberty. In addition, the Court determined that Colombia was responsible for violating the guarantee of an ordinary judge, because the investigation of the attack perpetrated by soldiers against Mr. Vélez Restrepo on August 29, 1996, was carried out in the military criminal jurisdiction.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) guarantee the conditions for the members of the Vélez Román family to return to live in Colombia, if they should decide to do so; (2) if the victims express their wish to return to live in Colombia, provide them with health care through its specialized health institutions and, if they decide not to return, give them the amounts established to help pay their health care costs; (3) publish, within six months of notification of the judgment: (a) the official summary of the judgment prepared by the Court, once, in the official gazette; b) the official summary of the judgment prepared by the Court, once, in a national newspaper with widespread circulation, and (c) the entire judgment, available for one year on an official website; (4) incorporate into its human rights education programs for the Armed Forces, a specific module on the protection of the right to freedom of thought and expression, and the work of journalists and social communicators; (5) advise the Court whether, under Colombian law, it is possible to adopt other measures or actions that permit responsibilities to be determined in this case for the attack of August 29, 1996, and the threats and harassment in 1996 and 1997 and, if so, implement those measures or actions; (6) conduct effectively and within a reasonable time, the criminal investigation into the attempt to deprive Luis Gonzalo Vélez Restrepo of his liberty that took place on October 6, 1997, and (7) pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and

to reimburse costs and expenses. The Court required Colombia to provide a report on the measures adopted to comply with the judgment, within one year of its notification.

### Case of Uzcátegui (Venezuela)

On September 3, 2012, the Court delivered its judgment on the merits and reparations in this case ([Annex 46](#)), in which it declared unanimously, that the State of Venezuela was internationally responsible for the violation, *inter alia*, of the right to life of Néstor José Uzcátegui; of the rights to personal integrity and to personal liberty of Luis Enrique Uzcátegui and Carlos Eduardo Uzcátegui, to freedom of expression of Luis Enrique Uzcátegui; and also of the rights to personal integrity, judicial guarantees and judicial protection of the members of the Uzcátegui family, who resided in Coro, Falcón state, Venezuela. The Court also found that the violation of the rights to privacy and to property of several members of the Uzcátegui family had been proved.

The facts of this case refer to the extrajudicial execution of Néstor José Uzcátegui perpetrated by members of the Police of Falcón state, Bolivarian Republic of Venezuela; the persecution of Luis Enrique Uzcátegui by members of the same police force in connection with the search to obtain justice for the death of his brother Néstor José; the illegal and arbitrary detention and searches conducted on members of the Uzcátegui brothers' family for the same reason; the threats against the life and personal integrity of Luis Enrique Uzcátegui, who also had to face a court case for slander and move from his home and, finally, the absence of judicial protection and the observance of due judicial guarantees.

In the judgment, the Court established that, on January 1, 2001, the Armed Police Force of Falcón state searched, without a court order and using violence, the home of the Uzcátegui family while they were celebrating the arrival of the new year; that, during the police raid, the police agents shot and killed Néstor José Uzcátegui, without the legitimacy or the need and proportionality of the use of lethal force having been justified.

The Court also determined that, the same day, Luis Enrique and Carlos Eduardo Uzcátegui – Néstor José Uzcátegui's brothers – were arrested without being shown an arrest warrant. The Court was also able to verify that several acts of harassment and threats against Luis Enrique Uzcátegui and members of his family began after he had informed the press and initiated judicial actions in order to obtain justice for the death of his brother and for other human rights violations that had been committed by the security forces of Falcón state. Similarly, it was verified that Luis Enrique Uzcátegui had been subjected to criminal proceedings for slander which could have had an intimidating effect on the exercise of his freedom of expression. It was also proved that the State was aware of the potential danger for Luis Enrique Uzcátegui and some members of his family and that it had not proved that it had taken sufficient and effective measures to counter the threats and harassment against Luis Enrique Uzcátegui and his family members. The Court was also able to confirm that, when the police agents of Falcón state irrupted violently into the home of the Uzcátegui family, the State violated the rights to privacy and property of its members.

In addition, in the proceedings before the Inter-American Court, the Court analyzed the domestic investigations and noted that they were not conducted with due diligence and did not meet the requirements of reasonable time. In particular, the Court observed that, during the investigation, several investigative actions or measures to obtain evidence were not taken, or were not taken satisfactorily, or were delayed; that several measures taken by the authorities omitted or delayed obtaining or forwarding probative elements, and that there was no evidence that the investigations were conducted taking into account the context of extrajudicial executions that existed at that time in Falcón state. The Court concluded that the State had violated the rights established in Articles 8(1) and 25(1) of the American

Convention, in relation to Article 1(1) thereof, to the detriment of the next of kin of Luis Enrique Uzcátegui, of Carlos Eduardo, and of the next of kin of Néstor José Uzcátegui.

Lastly, with regard to reparations, the Court ordered that the State must: (1) conduct the criminal investigation into the facts of this case effectively in order to elucidate them, determine the corresponding criminal responsibilities, and apply the legal sanctions and consequences; (2) examine, in accordance with the pertinent disciplinary regulations, the eventual procedural and investigative irregularities related to the case and, as appropriate, punish the conduct of the respective public servants; (3) provide psychological attention through its specialized public health institutions to the victims who request this; (4) publicize the judgment of the Inter-American Court, and (5) pay specific amounts as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses and the amount paid out from the Victims' Legal Assistance Fund of the Inter-American Court.

### Case of the Río Negro Massacres (Guatemala)

On September 4, 2012, the Court delivered its judgment on the preliminary objection, merits and reparations and costs in this case ([Annex 47](#)), in which it accepted Guatemala's partial acknowledgment of responsibility, and admitted the preliminary objection filed by the State consisting in the Court's lack of competence *ratione temporis* to examine human rights violations that had occurred prior to the acceptance of its jurisdiction. Taking into account the acknowledgement of responsibility and the preliminary objection, the Court determined that the State was responsible for the enforced disappearance of 17 members of the community of Río Negro. In addition, the Inter-American Court declared the international responsibility of the State for the consequences of the rape by soldiers and patrol members suffered by a member of the said community, for the abduction of 17 persons, 16 of them children, from the community of Río Negro during the massacre of Pacoxom, and for their having subsequently been obliged to carry out forced labor in the homes of members of the civil self-defense patrols.

The Court also considered that the massacres perpetrated against the community of Río Negro, added to the displacement of its members and their resettlement in the Pacux settlement in precarious conditions, among other consequences, made it impossible for them to return to their territory and led to the destruction of their social structure, family disintegration, and the loss of their cultural and religious practices and their traditional economic activities, as well as of the Maya Achí language, which has had an impact on the collective life of the members of the community of Río Negro who, today, live in Pacux.

The Court also found that the State had failed to conduct the investigation of the massacres perpetrated against the Community of Río Negro as an inherent obligation, and that the investigation had not been designed to investigate, pursue, capture, try and eventually punish effectively all those responsible, including the masterminds and the perpetrators, by examining completely and exhaustively the numerous adverse effects caused to the members of the community of Río Negro within the specific context in which the facts of this case occurred. In addition, the investigation was not addressed at locating all the disappeared victims, or at discovering more remains or duly identifying the remains that had been found during the different exhumations. In sum, the facts of this case have remained unpunished. Lastly, the Court found that the surviving victims of the Río Negro massacres suffer from profound anguish and pain as a result of the impunity of the events, which took place in the context of a State "scorched earth" policy designed to achieve the total destruction of the said community.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) investigate, forthwith, seriously and effectively, the events that gave rise to the violations

declared in the judgment, in order to prosecute and eventually punish those presumably responsible; (2) conduct an effective search to discover the whereabouts of the victims who were forcibly disappeared, as well as to locate, exhume and identify the persons presumably executed, and determine the cause of death and possible injuries inflicted prior to death, and also establish a genetic databank; (3) make the publications indicated in the judgment; (4) organize a public act to acknowledge international responsibility for the facts of the case; (5) provide the infrastructure and basic services for the members of the community of Río Negro who live in the Pacux settlement, as indicated; (6) design and implement a project to rescue the Maya Achi culture; (7) provide medical and psychological treatment to the victims of this case; (8) pay the amounts established as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, and (9) create an appropriate mechanism so that other members of the community of Río Negro may subsequently be considered victims of any of the human rights violations declared in the judgment and receive individual and collective reparations such as those ordered.

### *Orders on provisional measures*

During this session, the Court issued nine orders on provisional measures: *Matter of the Andean Region Penitentiary Center* with regard to Venezuela ([Annex 48](#)); *Matter of the Occidental Region Penitentiary Center (Uribana Prison)* with regard to Venezuela ([Annex 49](#)); *Matter of the Capital Region Penitentiary Center Yare I and Yare II* with regard to Venezuela ([Annex 50](#)) ([Annex 51](#)); *Matter of the Capital Detention Center El Rodeo I and Rodeo II* with regard to Venezuela ([Annex 52](#)) ([Annex 53](#)); *Matter of the Monagas Detention Center ("La Pica")* with regard to Venezuela ([Annex 54](#)); *Matter Haitians and Dominicans of Haitian Origin in the Dominican Republic* with regard to the Dominican Republic ([Annex 55](#)); *Case of Raxcacó Reyes et al.* with regard to Guatemala ([Annex 56](#)).

### *Orders on monitoring compliance*

During this session, the Court issued four orders on monitoring compliance with judgment in the cases of: *Mejía Idrovo v. Ecuador* ([Annex 57](#)); *Barrios Altos v. Peru* ([Annex 58](#)); *Las Dos Erres Massacre v. Guatemala* ([Annex 59](#)), and *Vargas Areco v. Paraguay* ([Annex 60](#)).

### *Academic activities*

From August 27 to 31, 2012, the Inter-American Court, together with the Human Rights Center of the *Universidad de Chile*, offered a training course to the Inter-American Association of Public Defenders (AIDEF). The purpose of the course was to continue the collaboration in order to train Inter-American Defenders on their functions before the inter-American system.

### *Meetings with authorities*

From August 29 to September 1, 2012, the Court received the visit of a delegation of judges from the European Court of Human Rights headed by its President, Sir Nicolas Bratza (Great Britain), who was accompanied by the Vice Presidents, Josep Casadevall (Andorra) and Dean Spielmann (Luxembourg). Santiago Quesada from the European Court's Secretariat was also part of the delegation. The visit corresponded to the visit that the President of the Inter-American Court had made to the European Court in 2011. The reason for the European Court's visit was to continue the exchange of experiences and opinions between the two courts in order to enhance the jurisdictional policies for the protection of human rights. During the visit, topics of mutual interest, such as the

dynamics of the work of each court, the processing of cases, and the issue of reparations were discussed.

### *E. 46th Special Session*

The Court held its 46th Special Session in San José, Costa Rica, from October 22 to 26, 2012.<sup>8</sup> During this session, the Court issued two judgments, together with four orders on provisional measures and three orders on monitoring compliance with judgment. The matters examined by the Court during this session are described below:

#### *Judgments*

##### **Case of Nadege Dorzema *et al.* (Dominican Republic)**

On October 24, 2012, the Court delivered its judgment on the merits, reparations and costs in this case ([Annex 61](#)), in which it declared that the State was internationally responsible for the violation of the rights to life, to personal integrity, to judicial guarantees, to movement, and to judicial protection, and also for non-compliance with the obligations to adapt its domestic law and with non-discrimination. However, the Court declared that the State was not responsible for the alleged violation of the right to juridical personality and equality before the law.

The Court also found that the State had not proved the legality, necessity and proportionality of the use of lethal force by the soldiers involved in the pursuit of a truck that transported migrants, and therefore concluded that the State had violated the right to life of the seven persons who lost their life. Regarding the survivors, the Court established that at least five people were injured by bullets fired during the incident; consequently, it considered that the failure to provide them with medical attention, among other matters, represented the violation of the right to personal integrity.

Furthermore, the Court considered that the State had failed to comply with its obligation to guarantee the rights to life and to personal integrity, because it did not have appropriate legislation on the exceptional use of force, and also because it had not provided education and training in this regard to the soldiers involved, which, according to the Court, also entailed the State's violation of its obligation to adopt domestic legal measures.

The Court also concluded that the detention of some of the victims was illegal and arbitrary, which entailed the violation of their right to personal liberty. Added to this, it established that the expulsion of the migrants was not in keeping with the relevant international standards or with the procedures established in domestic law, which gave rise to the violation of the right to judicial protection. Furthermore, the collective expulsion of the migrants violated the right to freedom of movement and residence.

In addition, the Court established that the intervention of the military justice system in the investigation of the facts violated the parameters of the exceptional and restricted nature

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<sup>8</sup> For this special session, the Court was composed as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica) were also present. In accordance with Articles 19 of the Court's Statute and 21 of the Court's Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.



that should characterize the competence of the said jurisdiction and led to the impunity of the facts of the case. Consequently, the Court concluded that the State had violated the rights to judicial guarantees and to judicial protection. Similarly, the Court established that the State had failed to comply with its obligation to adopt domestic legal measures, a situation that was subsequently remedied by the State.

The Court also concluded that there had been *de facto* discrimination against the victims in this case owing to their condition as migrants, which resulted in denying them the enjoyment of the rights that the judgment declared violated, thus contravening the obligation to respect the rights recognized in the American Convention.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) re-open the investigation into the facts of the case in order to identify, prosecute and punish, as appropriate, all those responsible for the facts, among other measures in order to conduct an effective investigation and clarification of the facts, as well as to determine the whereabouts of the bodies of those who died, repatriate them and return them to their next of kin; (2) provide the medical and psychological treatment required by the victims, immediately and free of charge, following their informed consent and for as long as necessary, including the provisions of medicines, also free of charge; (3) publish the judgment or specific parts of it in the official gazette and on an official website, as well as in a national newspaper with widespread circulation in the Dominican Republic. Also, translate the official summary of the judgment into French and Creole and publish it once, in a national newspaper with widespread circulation in Haiti, and organize a public act to acknowledge responsibility; (4) conduct training sessions for public officials on the following issues: (a) the use of force by law enforcement agents; (b) the principle of equality and non-discrimination, applied especially to migrants and with a gender-based perspective and a view to protect children, and (c) the appropriate procedure for the detention and deportation of irregular migrants. In addition, the State must conduct a media campaign on the rights of regular and irregular migrants in Dominican territory, and adapt its domestic law to the American Convention, incorporating international standards on the use of force by law enforcement agents, and (5) pay the amounts established in the judgment for pecuniary and non-pecuniary damage, to reimburse costs and expenses, and to reimburse the expenditure from the Victims' Legal Assistance Fund.

### **Case of the Massacres of El Mozote and nearby places (El Salvador)**

On October 25, 2012, the Court delivered its judgment on the merits, reparations and costs in this case ([Annex 62](#)), in which it declared the international responsibility of the Republic of El Salvador for the human rights violations perpetrated by the Salvadoran Armed Forces during the massacres committed from December 11 to 13, 1981, in the village of El Mozote, La Joya canton, the villages of Ranchería, Los Toriles and Jocote Amarillo, and in Cerro Pando canton, and in a cave on Cerro Ortiz, in the department of Morazán.

According to the Court, the State's international responsibility in this case was aggravated, owing to the context in which the facts of the massacres of El Mozote and nearby places were perpetrated. This was constituted by a period of extreme violence during the Salvadoran internal armed conflict responding to a State policy characterized by military counterinsurgency actions, such as "scorched earth" operations aimed at the massive and indiscriminate annihilation of the villagers who were equated, based on suspicion, to the guerrillas. Thus, as was proved, once the extrajudicial executions had been perpetrated, the soldiers proceeded to set fire to the villagers' homes, belongings and crops, and to kill their animals, which signified the definitive loss of the victims' possessions and the destruction of their homes and means of subsistence, causing the forced displacement of

the survivors from those places. As established, whole family units were destroyed, and, owing to the inherent nature of the massacres, this altered the dynamics of the surviving families and profoundly affected the community's social tissue. In addition, since then and up until today, there have been no effective judicial mechanisms to investigate the grave human rights violations perpetrated or to prosecute and to punish, as appropriate, those responsible.

Indeed, almost 31 years have elapsed since the massacres of El Mozote and nearby places, without serious and exhaustive criminal proceedings having been conducted in order to identify the masterminds and perpetrators, and without the full truth of the facts being known. Thus a situation of total impunity prevails protected by the General Amnesty Law for the Consolidation of Peace.

The Court considered that the logic of the political process between the parties in conflict, which led to the end of the hostilities in El Salvador, imposed on the State the obligation to investigate and punish, based on "exemplary actions" of the ordinary courts of law, at least the grave human rights violations that the Truth Commission established, so that they would not remain in impunity and their repetition would be prevented.

However, on March 20, 1993, five days after the presentation of the Truth Commission's Report, the Legislative Assembly of the Republic of El Salvador enacted the so-called "General Amnesty Law for the Consolidation of Peace," which granted amnesty to the persons referred to in article 6 of the National Reconciliation Law; namely, "the persons who, according to the report of the Truth Commission, had taken part in grave acts of violence since January 1, 1980."

Contrary to other cases that the Court had heard previously, this was a general amnesty law that referred to acts committed in the context of an internal armed conflict.

The Court maintained that, under the international humanitarian law applicable to these situations, the enactment of amnesty laws is sometimes justified by the ceasefire in non-international armed conflicts in order to make a return to peace possible. However, this norm is not absolute, because, the obligation of the States to investigate and prosecute war crimes also exists under international humanitarian law. Thus, "the persons suspected or accused of having committed war crimes, or who have been convicted of this" cannot be covered by an amnesty. Consequently, it can be understood that Article 6(5) of Additional Protocol II [to the 1949 Geneva Conventions] refers to extensive amnesties with regard to those who have taken part in a non-international armed conflict, provided that this does not extend to acts such as those of this case which fall within the category of war crimes and, even of crimes against humanity.

Thus, it is evident that the *ratio legis* of the General Amnesty Law for the Consolidation of Peace was to invalidate Chapter I ("Armed Forces"), point 5 ("Overcoming Impunity"), of the Peace Accord of January 16, 1992, and, thereby, amnesty and leave unpunished all the grave crimes against international law committed during the internal armed conflict, even though the Truth Commission had determined that they should be investigated and punished. Hence, the enactment of the General Amnesty Law for the Consolidation of Peace expressly contravened what the parties to the armed conflict themselves had established in the Peace Accord that established the ceasefire.

In conclusion, the Inter-American Court determined that the Legislative Assembly's enactment of the General Amnesty Law for the Consolidation of Peace and its subsequent application in this case by the Second Court of First Instance of San Francisco Gotera, on the one hand, was contrary to the letter and spirit of the Peace Accords that, considered in light of the American Convention, reveals a significant violation of the State's international

obligation to investigate and punish the grave human rights violations relating to the massacres of El Mozote and nearby places.

On the other hand, the General Amnesty Law for the Consolidation of Peace has resulted in the installation and perpetuation of a situation of impunity owing to the absence of investigation, pursuit, capture, prosecution and punishment of those responsible for the facts. Accordingly, the provisions of the General Amnesty Law for the Consolidation of Peace that prevent the investigation and punishment of the grave human rights violations that occurred in this case have no legal validity and, consequently, cannot continue to represent an obstacle for the investigation of the facts of this case and the identification, prosecution and punishment of those responsible, nor can they have the same or a similar impact in relation to other cases of grave violations of the human rights recognized in the American Convention that may have occurred during the armed conflict in El Salvador.

Lastly, the State ordered the State to undertake the following measures of reparation: (1) continue establishing the "Single Register of victims and family members of victims of grave human rights violations during the Massacre of El Mozote," and adopt the necessary measures to ensure its permanence, and the required budgetary allocation for it to function satisfactorily; (2) initiate, promote, re-open, lead, continue and conclude, as appropriate, with the greatest diligence, the investigations into all the facts that gave rise to the violations declared in the judgment in order to identify, prosecute and, as appropriate, punish those responsible; (3) ensure that the General Amnesty Law for the Consolidation of Peace never again represents an obstacle to the investigation of the events that are the subject of this case or for the identification, prosecution and eventual punishment of those responsible for them and for other similar grave human rights violations that occurred during the armed conflict in El Salvador; (4) investigate, using the competent public institutions, the conduct of the officials who obstructed the investigation and allowed these violations to remain unpunished and, following the appropriate proceedings, apply the corresponding administrative, disciplinary or criminal sanctions, as applicable, to those found responsible; (5) gather the available information on possible burial sites, which must be preserved, so that the exhumation, identification and, as appropriate, return of the remains of the persons executed to their families can be undertaken systematically and rigorously, with sufficient human and financial resources; (6) implement a development program for the communities of the village of El Mozote, La Joya canton, the villages of Ranchería, Los Toriles and Jocote Amarillo, and of Cerro Pando canton; (7) guarantee appropriate conditions for the displaced victims to be able to return to their communities of origin permanently, if they so wish, and also to implement a housing program in the areas affected by the massacres in this case; (8) implement a permanent program of integral attention and treatment of physical, mental and psycho-social health; (9) publish the judgment; (10) make an audiovisual documentary on the grave acts perpetrated during the massacres of El Mozote and nearby places; (11) implement a permanent and obligatory program or course on human rights, including a children's and gender-based perspective, for all ranks of the Armed Forces of the Republic of El Salvador, and (12) pay the amounts established as compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses.

### Orders on provisional measures

During this session, the Court issued four orders on provisional measures: *Case of Gutiérrez Soler* with regard to Colombia ([Annex 63](#)); *Case of De La Cruz Flores* with regard to Peru ([Annex 64](#)); *Matter of José Luis Galdámez Álvarez et al.* with regard to Honduras ([Annex 65](#)), and *Case of Carpio Nicolle et al.* with regard to Guatemala ([Annex 66](#)).

### Orders on monitoring compliance

During this session, the Court issued three orders on monitoring compliance with judgment in the following cases: *Vera Vera et al. v. Ecuador* ([Annex 67](#)); *Kawas Fernández v. Honduras* ([Annex 68](#)), and *Salvador Chiriboga v. Ecuador* ([Annex 69](#)).

### Meetings with authorities

On October 25, 2011 the judges of the Court received a visit from a delegation of judges from the Constitutional Court of the Dominican Republic, composed of its President, Milton Ray Guevara, and the Judges Víctor Gómez Bergés and Víctor Joaquín Castellanos Pizano, as well as the Court's Secretary, Julio José Rojas Báez. They were accompanied by the Executive Vice-president of the Institutionality and Justice Foundation (FINJUS), Servio Tulio Castaños Guzmán. During the meeting they shared experiences and challenges of both courts. Additionally, they agreed to sign a cooperation agreement between both parties

## F. 97th Regular Session

The Court held its 97th Regular Session in San José, Costa Rica, from November 19 to 30, 2012.<sup>9</sup> During the session, the Court issued seven judgments, three orders on provisional measures and one order on monitoring compliance with judgment. The matters examined by the Court during this session are described below:

### Judgments

#### Case of Gudiel Álvarez et al. ("*Diario Militar*") (Guatemala)

On November 20, 2012, the Court delivered the judgment on merits, reparations and costs in this case ([Annex 70](#)), in which, taking into account the partial acknowledgement of international responsibility made by the State of Guatemala, it declared, *inter alia*, the international responsibility of the State for the enforced disappearance of 26 victims recorded in the *Diario Militar*. Added to this, the Court established that the State had violated the rights of the child, to the detriment of two children, aged 13 and 16 years when the disappearances began.

<sup>9</sup> For this session, the Court was composed as follows: Diego García-Sayán (Peru), President; Manuel E. Ventura Robles (Costa Rica), Vice President; Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica) were also present. In accordance with Articles 19 of the Court's Statute and 21 of the Court's Rules of Procedure, none of the judges participated in cases, judgments, orders on monitoring judgment, orders on provisional measures or any other jurisdictional activity concerning the countries of which they are nationals.

The Court established that these enforced disappearances occurred in the context of a systematic practice of the State and that they were part of a policy to attack individuals identified as "internal enemies." The Court also indicated that the existence of official documents, such as the *Diario Militar*, reveal the organization and planning surrounding the enforced disappearances, as well as the coordination that existed between senior political and/or military authorities.

In relation to the investigation of the enforced disappearances and other facts of the case, the Court emphasized that the violations perpetrated in this case were part of a systematic pattern of denial of justice and of impunity. In this regard, among other aspects, the Court indicated that the State had not acted with due diligence, because: (a) most of the State's actions were designed to obtain information on the victims and not on the events that had occurred; (b) there was an unjustified delay in the joinder of the cases of the individuals recorded in the *Diario Militar*; (c) the Ministry of National Defense has failed to collaborate and this has obstructed the progress of the investigations, and (d) serious omissions have occurred in the use of the evidence.

Regarding the victims' next of kin, the Court established that the State had violated their right to personal integrity, owing to the sadness, frustration, impotence, insecurity and anguish they had suffered, as well as for preventing the elucidation of the truth.

Lastly, the Court ordered the State to undertake the following measures of reparation: (1) initiate, continue and conduct the necessary investigations and proceedings, within a reasonable time, in order to establish the truth of the facts, and also to determine and to punish, as appropriate, those responsible for the enforced disappearance of the 26 victims, as well as for the death of Rudy Gustavo Figueroa Muñoz and the alleged detention and torture suffered by Wendy and Igor Santizo Méndez; (2) conduct, as soon as possible, a genuine search, making every effort to determine the whereabouts of the 24 victims who remain disappeared; (3) provide, immediately, the psychological or psychiatric treatment to the victims who request this and, as appropriate, pay the amount established for the expenses of psychological or psychiatric treatment for those victims who live outside Guatemala; (4) publish the official summary of the judgment, once, in the official gazette and in a national newspaper with widespread circulation, and the entire judgment on an official web site; (5) make an audiovisual documentary on the victims and the events of this case, the context in which they occurred, and the families' search to obtain justice; (6) create a park or a square to honor the memory of the victims of this case, which will be a place where their next of kin can remember their loved ones, and (7) pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses.

#### **Case of Atala Riffo and daughters (Chile)**

On November 21, 2012, the Court delivered a judgment on the request for interpretation of the judgment on merits, reparations and costs in this case ([Annex 71](#)), in which it declared admissible the request for interpretation of paragraphs 71, 255, 299 and 313 of the judgment on merits, reparations and costs delivered by the Inter-American Court on February 24, 2012, and clarified, by interpretation, the meaning and scope of the compensation for non-pecuniary damage in favor of the child V. In addition, the Court rejected the request for the interpretation of the measure of rehabilitation relating to medical and psychological care, and to the payment of fees and expenses.

### Case of Mohamed (Argentina)

On November 23, 2012, the Court delivered the judgment on the preliminary objection, merits, reparations and costs in this case ([Annex 72](#)), in which it rejected the preliminary objection filed by the State, and declared that the State was internationally responsible for having violated the right to appeal a judgment established in Article 8(2)(h) of the American Convention on Human Rights, in relation to Articles 1(1) and 2 of this instrument, to the detriment of Oscar Alberto Mohamed. The Court determined the State's international responsibility because it had not guaranteed Oscar Alberto Mohamed the right to appeal a criminal conviction. Mr. Mohamed had been convicted as the perpetrator of the crime of culpable homicide in a judgment handed down on February 22, 1995, by the second instance court, which revoked the acquittal decided by the first instance court.

In addition, the Court established that the laws applied to Mr. Mohamed did not establish any ordinary remedy to contest the second instance conviction, but merely a special federal appeal and a subsequent remedy of complaint. The Court considered that the said special appeal did not constitute a way to contest the criminal proceedings and that the grounds for the admissibility of the said appeal were limited to a review of matters relating to the validity of a law, treaty, constitutional provision, or the arbitrary nature of a judgment, and exclude factual and probative matters, as well as those relating to non-constitutional procedural law. In this regard, the Court concluded that the Argentine system of criminal procedure applied to Mr. Mohamed did not ensure him, by law, an accessible and effective ordinary remedy that would permit examining the conviction against Mr. Mohamed, in the terms of Article 8(2)(h) of the American Convention. In addition, the Court concluded that, in this specific case, the special appeal and the remedy of complaint did not constitute effective remedies to ensure the right to appeal the conviction.

The Court concluded that the inexistence of a judicial remedy that would ensure the review of Mr. Mohamed's conviction and the application of judicial remedies that did not guarantee that right entailed the failure of the State to comply with the general obligation to adapt its laws to ensure the exercise of the right to appeal a ruling, as well as of the obligation to respect and guarantee rights.

Regarding the alleged violation of the *ne bis in idem* principle, the Court indicated that Mr. Mohamed had not been subjected to two different trials or judicial proceedings based on the same facts; it therefore concluded that the State had not violated Article 8(4) of the American Convention, which recognizes this principle.

Lastly, in relation to the alleged violation of the principle of legality, the Court considered that the questions raised relate to criminal matters that must be examined by a superior court, which should hear the appeal against Mr. Mohamed's conviction. Consequently, the Court did not consider it pertinent to determine whether or not the considerations relating to the legal grounds for the conviction for the crime of culpable homicide entailed a violation of the principle of legality.

The Court ordered the State to undertake the following measures of reparation: (1) take the necessary measures to ensure Oscar Alberto Mohamed the right to appeal his conviction, in keeping with the parameters of Article 8(2)(h) of the American Convention; (2) take the necessary measures to ensure that the legal effects of the said conviction and, especially, his criminal record, are suspended until a ruling on merits is made that guarantees the right of Oscar Alberto Mohamed to appeal his conviction; (3) publish, within six months of notification of this judgment: (a) the official summary of the judgment prepared by the Court, once, in the official gazette; (b) the official summary of the judgment prepared by the

Court, once, in a national newspaper with widespread circulation, and (c) the entire judgment, available for one year on an official website; 4) pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, and also to reimburse the Victims' Legal Assistance Fund of the Inter-American Court the amount established in the judgment.

### **Case of Castillo González *et al.* (Venezuela)**

On November 27, 2012, the Court delivered the judgment on merits in this case ([Annex 73](#)), in which it established that all the probative elements provided and, especially, the alleged "indications" referred to by the Inter-American Commission, did not prove the State's international responsibility for tolerating, acquiescing to or directly perpetrating the attack committed against the presumed victims in this case. Accordingly, it considered that the State had not violated the rights to life and personal integrity, and the rights of the child, in relation to the general obligation to respect rights.

The Court also established that, despite the existence of a situation of insecurity and the increase in acts of violence in the border area between Colombia and Venezuela (Zulia state) in which the events occurred, it had not been proved that these factors had constituted a systematic or generalized practice or situation; therefore, it found that it was not necessary to analyze whether or not the State had an enhanced obligation of prevention in relation to the events that gave rise to this case. The Court also noted that, prior to the events, Mr. Castillo had not been subjected to threats and acts of intimidation, and no public complaint had been made or filed before the State authorities concerning the alleged situation of risk. Consequently, the Court concluded that, at the time of the events, there were insufficient elements to establish that Mr. Castillo was in a situation of special risk that entailed the State's obligation to adopt special measures of protection and prevention in his favor.

Thus, the Court considered that the State was not responsible for the violation of the right to life, in relation to the obligation to prevent its violation, derived from the general obligation to ensure rights, to the detriment of Mr. Castillo. For the same reasons, the Court found that the State was not responsible for the violation of the right to personal integrity and the rights of the child, to the detriment of Yelitze Moreno and of Luis Castillo Moreno, as applicable.

Regarding the investigation of the facts, the Court indicated that, during the said investigation, numerous measures were taken that respond to standards of due diligence and that, at the same time, there were some omissions and delays in taking some measures. Nevertheless, it concluded that the said omissions and delays were related to isolated aspects or measures in the prosecution's investigation and that, assessed in the context of the entire investigation, they lack sufficient weight and significance to entail the international responsibility of the State for a violation of the rights to judicial guarantees and protection.

Lastly, the Court underlined that the arguments concerning the alleged violations of the rights to personal integrity, to protection of honor and dignity, to freedom of thought and expression, and to freedom of association were founded on the supposed responsibility of the State for the murder of Mr. Castillo and on the effects on the personal integrity of his family, or on the alleged lack of an adequate investigation of the events. Therefore, it considered that the State's international responsibility was not constituted in relation to these rights, because the violation of Mr. Castillo's right to life and his family's right to personal integrity had not been established.

Consequently, the Court established that the case file be archived.

### Case of *Artavia Murillo et al.* (Costa Rica)

On November 28, 2012, the Court delivered the judgment on preliminary objections, merits, reparations and costs in this case ([Annex 74](#)), in which it established that the Costa Rican State was responsible for the violation of the rights to personal integrity, personal liberty and privacy and the rights of the family to the detriment of the 18 victims in this case. This violation was the result of the judgment delivered by the Constitutional Chamber of the Supreme Court on March 15, 2000, that declared unconstitutional Executive Decree No. 24029-S, which regulated the technique of *in vitro* fertilization (IVF) in the country. In particular, the Court found that the said ruling meant that IVF could no longer be practiced in Costa Rica. The ruling also led to the interruption of the medical treatments that some of the presumed victims in this case had initiated, while others were obliged to travel abroad in order to undergo IVF. These facts constituted interference in the private and family life of the presumed victims, who had to modify and change the methods and practices they wished to attempt in order to procreate a biological child. The ruling meant that the couples had to change their course of action in relation to a decision they had already taken: that of trying to have children using IVF.

The Court considered that, in this case, Article 4 of the American Convention on Human Rights was not applicable, insofar as, based on the considerations made, although the egg fertilized by the spermatozoid results in a different cell, if this is not subsequently implanted in the uterus, its possibilities of survival are nil and it would be unable to develop and become a person. If an embryo is never implanted in the uterus, it could not develop, because it would not receive the necessary nutrients, and would not be in an appropriate environment for its development, so that the term “conception” could not be understood as a moment or process outside a woman’s body.

Nevertheless, the Inter-American Court took note that the main argument used by the Constitutional Chamber to ban IVF was the supposed violation of the right to life by the said assisted reproduction technique, in the understanding that Article 4(2) of the Convention established an absolute protection for the embryo and, consequently, the prohibition of IVF, because this results in the loss of embryos. On this basis, the Inter-American Court interpreted Article 4 according to the ordinary meaning of the words, using a systematic and evolutive analysis, in keeping with the object and purpose of the treaty. In addition, the Court took into account the main relevant decisions in comparative law and of the organs of the international and regional systems for the protection of human rights.

The Court noted that the said analysis could not lead to the conclusion that the embryo may or should be treated under the law in the same way as a “person” for the effects of Article 4(1) of the Convention. In addition, according to the scientific evidence provided, “conception” in the sense of the said article takes place at the moment in which the embryo is implanted in the uterus. Meanwhile, the expression “in general” signifies exceptions to the general rule established in the article. The Court also referred to the gradual and incremental protection of life according to the stage of its development.

Regarding the alleged loss of embryos owing to the use of the assisted reproduction technique, the evidence in the case file is consistent in indicating that embryonic loss occurs in both natural pregnancies and IVF, so that this is a risk that is common and even inherent in processes where the IVF technique is not involved.





The Court also considered that infertility was a functional limitation recognized as a disease by the World Health Organization and that individuals suffering from infertility in Costa Rica, faced with the barriers created by the Constitutional Chamber's decision, should have been beneficiaries of the rights of persons with disabilities, which include the right of access to the necessary techniques to resolve problems of reproductive health, which was denied to them, owing to the said decision.

The Court ordered the State to undertake the following measures of reparation: (1) take the appropriate measures to annul, as soon as possible, the prohibition to practice *in vitro* fertilization so that those who wish to use this assisted reproduction technique can do so without any impediment; (2) regulate the aspects it considers necessary for its implementation and establish inspection and quality control systems for the qualified professionals and institutions that perform this type of assisted reproduction technique, and (3) include gradually, through the Costa Rica Social Security Institute, the availability of *in vitro* fertilization in the infertility programs and treatments of its health care services, in keeping with the obligation to ensure respect for the principle of non-discrimination. In addition, to make reparation, the State must: (a) provide psychological treatment to the victims who request this, free of charge; (b) publish the official summary of the judgment prepared by the Court in the official gazette and in a national newspaper with widespread circulation, and make it available on a website of the Judiciary; (c) implement permanent education and training programs and courses on human rights, reproductive rights and non-discrimination for judicial officials, and (d) pay compensation for pecuniary and non-pecuniary damage to the victims.

#### **Case of García and family members (Guatemala)**

On November 29, 2012, the Court delivered the judgment of merits, reparations and costs in this case ([Annex 75](#)), in which, taking into account the partial acknowledgement of international responsibility made by the State of Guatemala, it declared, *inter alia*, the international responsibility of the State for the enforced disappearance of Edgar Fernando García. In this case, the parties signed an agreement on measures of reparation and this was endorsed by the Court in its judgment.

The Court established that the enforced disappearance of Mr. García took place in the context of a systematic practice of the State and that it was part of a policy to attack individuals identified as "internal enemies," in which the purpose of enforced disappearance was to dismantle social movements or organizations that the State identified as supporting the "insurgency." The Court concluded that the reason for the enforced disappearance of Mr. García was his participation in trade union and student associations categorized as "opposition and/or insurgent" in the context of the internal armed conflict in Guatemala.

In this case, information found in the Historical Archive of the National Police led to the conviction of two perpetrators in 2010, and also the prosecution of two alleged masterminds, and the identification of two other alleged perpetrators, which the Court assessed positively. Nevertheless, the Court concluded, among other matters, that the State had failed to comply with its obligation to open an investigation *ex officio* into the facts of this case, within a reasonable time and with due diligence, insofar as, among other matters, the investigations did not make any progress until the discovery, by accident, of the Historical Archive of the National Police, more than 25 years after the events.

In addition, the Court indicated that Mr. García's next of kin suffered great uncertainty, profound suffering and anguish owing to his enforced disappearance, so that the State violated their personal integrity. Lastly, the Court considered that the dangerous situation to

which Nineth Varenca Montenegro and María Emilia García were subject as members and founders of the *Grupo de Apoyo Mutuo* [Mutual Support Group], represented a *de facto* restriction and a violation of their right to freedom of association.

Taking into account the agreement on reparations reached by the parties in this case, all of which it endorsed, the Court determined the scope and method of implementation of the agreed reparations, in light of the criteria established in its case law and in relation to the nature, object and purpose of the obligation to make full reparation for the harm caused to the victims. Thus, the Court ordered that the State: (1) continue and conclude the necessary investigation and proceedings, within a reasonable time, in order to establish the truth of what happened, and to identify and to punish, as appropriate, those responsible for the enforced disappearance of Edgar Fernando García and, to this end, create a Steering Committee that should meet every six months to advise the victims and their representatives of progress in the investigation; (2) conduct, as soon as possible, a genuine search, in which every effort is made to determine the whereabouts of Edgar Fernando García and, to this end, it must request information on findings related to the location of his remains from the Guatemalan Forensic Anthropology Foundation and the National Institute of Forensic Science, through the Steering Committee, when this is considered pertinent; (3) publish the operative paragraphs of the judgment in the official gazette and in a private newspaper with the highest circulation in the country, indicating in these publications that the full text of this judgment is available on the Court's web page; (4) organize a public act to acknowledge international responsibility for the facts of the case; (5) facilitate the initiative known as the "*Memorial para la Concordia*" under which it must expedite the construction of commemorative and cultural spaces to dignify the memory of the victims of human rights violations during the internal armed conflict; (6) include the name of Edgar Fernando García on the plaque placed in the park or square created in compliance with the seventh operative paragraph of the judgment in the case of *Gudiel Álvarez et al. ("Diario Militar") vs. Guatemala*; (7) expedite the change of name of the "Julia Ydigoras Fuentes" public school to that of Edgar Fernando García, as stipulated in the reparations agreement; (8) grant 10 "scholarships" to be awarded by the next of kin of Edgar Fernando García to children or grandchildren of persons forcibly disappeared; (9) expedite the approval of the bill for the creation of the National Search Commission for Victims of Enforced Disappearance and other Forms of Disappearance; (10) pay the amount established in the reparations agreement as compensation for pecuniary and non-pecuniary damage, and medical and psychological treatment, and (11) pay the amount established in the reparations agreement and in the judgment to reimburse costs and expenses.

### Case of the Santo Domingo Massacre (Colombia)

On November 30, 2012, the Court delivered the judgment on preliminary objections, merits and reparations in this case ([Annex 76](#)), in which it declared that the Republic of Colombia was internationally responsible for the human rights violations committed to the detriment of 17 victims who died, of whom six were children, and of 27 victims who were injured, of whom 10 were children, by the launch of a cluster device, composed of six grenades or cluster bombs, by the Colombian Air Force on December 13, 1998, in the village of Santo Domingo, in the department of Arauca in Colombia.

These events took place in the context of an airborne military operation against the guerrillas that lasted several days. As a result of the facts of the case, the inhabitants of Santo Domingo had to abandon their homes for several weeks. Regarding the investigation of the events, three members of the crew of the aircraft that launched the device were convicted, a conviction that was upheld by the Superior Court of Bogota in June 2011, with regard to two crew members. The Colombian contentious administrative jurisdiction also established the State's responsibility for these facts.

During the proceedings before the Court, the State made an acknowledgement of responsibility for the violation of the victims' rights to the truth and to access to the administration of justice, alleging that enormous confusion and contradictory positions existed about the facts, owing to the flaws in the gathering of evidence throughout the domestic criminal proceedings. However, the Court observed that this act by the State, which it called an acknowledgement, contradicted its position during the processing of the case before the Inter-American Commission and that, as the State itself indicated, the said act did not entail an acknowledgement or acceptance of the facts presented by the Commission and by the victims, so that it could not be considered an acknowledgement of responsibility or have legal effects.

Regarding the alleged violation of judicial guarantees and protection, the Court noted that it had not been proved that the State had not conducted a serious, diligent and exhaustive investigation, within a reasonable time. To the contrary, the Court verified and established that the domestic mechanisms and proceedings had contributed to the elucidation of the truth, to the determination of the scope of the State's responsibility and to the determination of reparations. Consequently, the Court considered that the State had not violated Articles 8 and 25 of the Convention and that, based on the principle of complementarity, it was unnecessary to rule on the facts that gave rise to the violations of rights established and repaired at the domestic level. Nevertheless, the Court observed that, during the proceedings before the Court, the State had tried to ignore and even cast doubts on the measures taken by its judicial and administrative organs to determine the truth of what happened and the respective responsibilities, as well as to make reparation to the victims of the facts of this case, maintaining the dispute concerning the facts; hence, the Court proceeded to analyze the alleged violations of the Convention.

The Court noted that, owing to the lethal capacity and limited precision of the device used, its launch in the urban center of the village of Santo Domingo or nearby, was contrary to the principle of precaution recognized by international humanitarian law, which allowed the Court to declare the State's responsibility for the violation of the right to life of those who died in the village of Santo Domingo, as well as of the right to personal integrity of those who were injured. Furthermore, the Court noted that the machine-gunning of the civilian population by members of the Air Force entailed a failure to comply with the obligation to ensure the rights to life and personal integrity, in the terms of the American Convention, of the inhabitants of Santo Domingo who were affected by the endangering of their rights.

In addition, having found proved that, during the confrontation with the FARC guerrillas, on December 13, 1998, the Colombian Air Force launched an AN-M1A2 cluster device on the village of Santo Domingo, causing the death and injury of civilians, the Court took note that the domestic judicial and administrative organs had considered that the State had failed to comply with the principle of distinction when conducting the said airborne operation.

The Court also concluded that the State had failed to comply with its obligation to provide special protection to the children affected by the events of Santo Domingo, because it had not complied with its special obligation of protection in the context of a non-international armed conflict, and it considered that the violations of the rights to life and personal integrity declared previously should be understood in relation to the violation of the right to special measures of protection for the children who died and those who were injured. In addition, the Court considered that the State was responsible for the violation of the right to personal integrity of the next of kin of the victims of the events, and that the situation of internal forced displacement faced by the injured victims and their families was a result of the explosion of the cluster bomb in the village of Santo Domingo, and also the psychological effects arising from the nearby confrontations, as well as the said machine-gunning. This allowed the Court to conclude that the State was responsible for the violation of freedom of movement and residence in relation to the right to personal integrity of those who were

injured. In addition, the Court concluded that the State was responsible for the violation of the right to property of the owners of the stores and homes affected by the damage produced by the device.

Regarding compensation, the Court indicated that, since the contentious administrative justice of the Council of State had established compensation in favor of most of the victims based on what they had requested and even conciliated, owing to the principle of complementarity, it was not incumbent on the Court to order additional pecuniary reparations for the next of kin of the deceased victims, or for those who were injured during the events, who had already received reparation at the domestic level, without prejudice to the reparations that corresponded to other victims who had not used that channel, as indicated in the judgment.

Lastly, the Inter-American Court ordered the State to undertake the following measures of reparation: (1) organize a public act to acknowledge international responsibility for the facts of this case; (2) publish and disseminate the judgment of the Inter-American Court; (3) provide comprehensive health care to the victims, and (4) grant and execute, within one year and using an expedite domestic mechanism, as appropriate, the pertinent compensation for pecuniary and non-pecuniary damage, in favor of several of the injured victims and several family members of victims who did not resort to the domestic contentious administrative jurisdiction.

### *Orders on provisional measures*

During this session, the Court issued three orders on provisional measures: Matter of *Millacura Llaipén et al.* with regard to Argentina ([Annex 77](#)); Matter of the *Socio-educational Internment Facility* with regard to Brazil ([Annex 78](#)), and Matter of *Alvarado Reyes* with regard to Mexico ([Annex 79](#)).

### *Orders on monitoring compliance*

During this session, the Court issued an order on monitoring compliance with judgment in the case of the *Mapiripán Massacre v. Colombia* ([Annex 80](#)). On February 24, 2012, the State of Colombia submitted what it called a “request for review of the judgment” (delivered on September 15, 2005). The State requested that certain persons should not be considered victims of this case and presented information on identification of other victims. When deciding this request, the Court noted that an Order does not relate to the merits of the decision in the judgment and is not and cannot be a review of the judgment, which is final and non-appealable, according to Article 67 of the Convention.

The Court underlined that, during the procedure of monitoring compliance with judgment, the State had reiterated that it acknowledged the facts known as the “Mapiripán Massacre” that took place between July 14 and 20, 1997, as well as its responsibility declared in the judgment, and that it would continue complying, in good faith, with the provisions of the judgment. Regarding the persons who should not be considered victims, the Court declared that, according to the information presented by the State following the delivery of the judgment, at the stage of monitoring compliance and as a result of having reactivated the investigations owing to the State’s obligation to investigate the facts and identify the victims, six individuals and their next of kin (included in the judgment or identified subsequently) should not be considered victims of the case, and the reparations ordered in their favor should not have effect, because they were alive, or had died under circumstances other than the events of the Mapiripán Massacre. The Court established that it would not continue to monitor the provisions of the judgment relating to the consideration of these six individuals

as victims and of their next of kin as beneficiaries. In addition, it established that it corresponded to the State to adopt the necessary measures at the domestic level, if it considered this necessary, for the payments awarded as compensation to be reimbursed through the pertinent domestic mechanisms and procedures; also, that the Court would keep open the proceeding of monitoring compliance with regard to the pending provisions of the judgment.

#### **IV. Application of article 65 of the American Convention**

On November 23, 2012, the Inter-American Court issued an Order ([Annex 81](#)) in which it established the refusal of Venezuela to comply with the judgment of August 5, 2008, in the case of *Apitz Barbera et al. v. Venezuela*. In accordance with Article 65 of the American Convention, the Court informs the OAS General Assembly that Venezuela has not complied with the said judgment, and requests that it urge this State to comply with the judgment of the Court.

#### **V. Development of the case law of the Court**

This section highlights some of the developments in the Court's case law during 2012, as well as some of the standards that reaffirm the case law already established by the Court. It is worth noting that these developments in the case law establish principles that are significant when the organs of the public authorities apply the so-called control of conformity with the Convention within their respective spheres of competence.

In this regard, the Court has recalled that domestic authorities are subject to the rule of law and, consequently, they are obliged to apply the legal provisions in force. When a State is a party to an international treaty such as the American Convention, all its organs, including its judges, are also subject to this treaty, which obliges them to ensure that the effects of the provisions of the Convention are not weakened by the application of norms that are contrary to its object and purpose. Thus, judges and organs related to the administration of justice at all levels are obliged to exercise *ex officio* "control of conformity with the Convention" to ensure concordance between domestic law and the American Convention, evidently within their respective spheres of competence and the corresponding procedural regulations. In this task, the judges and organs related to the administration of justice must take into account not only the treaty, but also the interpretation made of it by the Inter-American Court, ultimate interpreter of the American Convention.

The Court has indicated that a dynamic and complementary control of the treaty-based obligations of the States to respect and ensure human rights has been established in conjunction with the domestic authorities (who bear the primary obligation) and the international organs (on a complementary basis), so that standards for taking decisions can be harmonized and adapted. Thus, the Court's case law reveals cases in which the decisions of domestic courts have been used to found and conceptualize the violation of the Convention in a specific case. In other cases, it has been recognized that, in accordance with the international obligations, the domestic organs, instances and courts have adopted adequate measures to remedy the situation that originated the case, have settled the alleged violation, have established reasonable reparations, or have exercised an adequate control of conformity with the Convention.

The Court will now describe some of the most relevant case law developed during 2012:

## Discrimination

### Right to equality and non-discrimination based on sexual orientation

The Court established that sexual orientation and gender identity are protected by Article 1(1) of the American Convention under the expression “other social condition,” and reiterated the obligation of States to respect and guarantee “without any discrimination” the free and full exercise of the fundamental rights recognized in the Convention. Furthermore, the Court indicated that any domestic norm, decision or practice by State authorities or private individuals that harms the rights of an individual based on his or her sexual orientation constitutes a discriminatory act and should therefore be proscribed.<sup>10</sup>

### Sphere of exercise of sexual orientation, liberty and self-determination

The Court indicated that the scope of the right to non-discrimination owing to sexual orientation was not limited to the condition of being homosexual, in itself, but included its expression and the necessary consequences for the life project of the individual. Thus, a person's sexual orientation is also linked to the concept of liberty and the possibility of self-determination of all human beings and to choose freely the options and circumstances that give meaning to their existence, in accordance with their own choices and convictions. Therefore, “[t]he affective life with a spouse or permanent companion, which logically includes sexual relations, is one of the main aspects of that ambit or circle of intimacy.” Thus, the Court considered that, the prohibition of discrimination based on sexual orientation must include, as protected rights, conducts in the exercise of homosexuality.<sup>11</sup>

### The best interests of the child cannot justify discrimination

The best interests of the child cannot be used to justify discrimination against the mother or father owing to their sexual orientation. Thus, the judge may not take into consideration this social condition as an element to decide on guardianship or custody. The Court added that a decision based on unfounded and stereotyped presumptions regarding parental capability and aptness to be able to guarantee and promote the well-being and development of the child is not appropriate to ensure the legitimate purpose of protecting the best interests of the child. The Court considered that considerations based on stereotypes of sexual orientation, in other words, pre-conceptions of the attributes, conducts or characteristics of homosexual individuals or the impact that these could presumably have on children are inadmissible.<sup>12</sup>

<sup>10</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, paras. 85, 91 and 93.

<sup>11</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, paras. 133, 135 and 136.

<sup>12</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, paras. 110 and 111.

## Social discrimination

The Court considered that the alleged possibility of social discrimination, proven or not, which children could face owing to the condition of the mother or father cannot serve as a legal basis to justify a difference in treatment and the restriction of a right. Even though it is true that certain societies may be intolerant of conditions such as the race, sex, nationality or sexual orientation of an individual, States may not use this as justification to perpetuate discriminatory treatments. States are internationally obliged to adopt all necessary measures “to give effect” to the rights established in the Convention, as stipulated in Article 2 of this inter-American instrument; thus, they must endeavor to overcome manifestations of intolerance and discrimination, in order to avoid the exclusion or denial of a specific condition. The Court noted that, contemporary societies are undergoing social, cultural and institutional changes designed to be more inclusive of all the life choices of their citizens, which is revealed by the social acceptance of interracial couples, single mothers or fathers, or divorced couples who, at other times, were not accepted by society. Thus, law and the States must contribute to social progress; otherwise, there is a serious risk of legitimating and strengthening different forms of discrimination that violate human rights.<sup>13</sup>

## Differentiated impact in relation to socio-economic situation

The Court has also reiterated that, owing to the circumstances in which the events took place and, especially, owing to the socio-economic situation and vulnerability of the presumed victims, the harm caused to their property may be greater and have more impact that it would with other individuals or groups in other circumstances. Therefore, the Court found that State must take into account that groups of individuals who live in adverse circumstances and with less resources, such as those living in poverty, suffer greater damage to their rights, precisely due to their situation of increased vulnerability.<sup>14</sup>

## Migrants and indirect discrimination

The Court recalled that international human rights law prohibits not only policies and practices that are deliberately discriminatory, but also those whose impact is discriminatory against certain categories of individuals, even when it is not possible to prove the discriminatory intention.<sup>15</sup>

The Court found that a violation of the right to equality and non-discrimination also occurs in situations and cases of indirect discrimination reflected in the disproportionate impact of laws, actions, policies or other measures which, even though their wording is or appears to be neutral, or they have a general and undifferentiated scope, produce negative effects for certain vulnerable groups. In this way, when a general policy or measure has a disproportionately prejudicial effect on a particular group it may be considered discriminatory even if it was not specifically addressed at that group.<sup>16</sup>

<sup>13</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, paras. 119 and 120.

<sup>14</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary objections, merits and reparations. Judgment of November 30, 2012 Series C No. 259, paras. 273.

<sup>15</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012 Series C No. 251, para. 233.

<sup>16</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012 Series C No. 251, para. 234.



## Private and family life – Reproductive rights

### Private life – the decision of whether or not to become a parent

The Court has emphasized the concept of liberty and the right of every human being to self-determination and to choose freely the options and circumstances that give a meaning to his or her existence, in keeping with his or her choices and convictions. Private life includes the way in which individuals see themselves and how they decide to project themselves towards others, and is an essential condition for the free development of one's personality. In addition, the Court has indicated that maternity is an essential part of the free development of a woman's personality. On this basis, the Court considered that the decision on whether or not to become a parent is part of the right to private life and includes, in this case, the decision to be a mother or father in the genetic or biological sense.

### Private life – reproductive autonomy

The Court indicated that the right to private life is related to: (i) reproductive autonomy and (ii) access to reproductive health services, which involves the right of access to the necessary medical technology to exercise that right. Consequently, the rights to private life and to personal integrity are also directly and immediately linked to health care services. The absence of legal safeguards taking into consideration reproductive health may result in serious harm of the right to reproductive liberty and autonomy. Regarding reproductive rights, the Court indicated that these rights are based on the recognition of the basic right of all couples and individuals to decide freely and responsibly on the number of children, the spacing of the births, and the interval between these, and to have the information and the means for this, and also the right to the highest level of sexual and reproductive health.

### Private life – reproductive liberty – access to scientific progress

The right to private life and reproductive liberty is related to the right of access to the necessary medical technology to exercise that right. The right of access to the maximum and most effective scientific progress to exercise reproductive autonomy and the possibility of founding a family gives rise to the right of access to the best health care services in relation to assisted reproduction techniques and, consequently, the prohibition of disproportionate and unnecessary restrictions *de iure* and *de facto* to exercise reproductive decisions.<sup>17</sup>

## Childhood

### The principle of the best interests of the child

The Inter-American Court reiterated that the Preamble to the Convention on the Rights of the Child establishes that children require "special care," and Article 19 of the American Convention indicates that they should receive special "measures of protection" in order to ensure that the best interests of the child prevail. In addition, the Court highlighted that the general objective of protecting the principle of the best interests of the child is, in itself, a legitimate as well as an imperative purpose. Thus, the Court indicated that any domestic decision that entailed a restriction of the rights and freedoms contained in the American

<sup>17</sup> Cf. *Case of Artavia Murillo et al. (In vitro fertilization) v. Costa Rica*. Preliminary objections, merits, reparations and costs. Judgment of November 28, 2012. Series C No. 257, paras. 142, 143, 146 and 150.

Convention must have a legitimate purpose, which must be demonstrated with sufficient evidence and not based on the mere reference to the “best interests of the child.”<sup>18</sup>

### Adoption of special measures for the protection of children

The Court maintained that, an examination of Article 19 of the American Convention together with Article 35 of the Convention on the Rights of the Child, reveals that the latter clarifies and determines the content of some of the “measures of protection” alluded to in Article 19 of the Convention, including the obligation to adopt the necessary national measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.<sup>19</sup> Thus, the Court considered that criminal sanctions are one of the appropriate ways to protect certain legal rights and that giving up a child in exchange for payment or any other type of remuneration, clearly harms fundamental legal rights such as the child’s liberty, personal integrity and dignity, and is thus one of the most severe acts of violence against a child, regarding whom adults have taken advantage of his or her vulnerability.<sup>20</sup>

### Rights of the child in administrative and judicial proceedings

The Court established that the observance of legal provisions and diligence in judicial proceedings are fundamental elements to protect the best interests of the child and that this principle cannot be invoked to legitimate the failure to observe legal requirements, or delays or errors in judicial proceedings.<sup>21</sup> In addition, it reiterated that the administrative and judicial proceedings that concern the protection of the human rights of the child, particularly those judicial proceedings relating to adoption, guardianship and custody of children in early infancy, must be handled with exceptional diligence and speed by the authorities.<sup>22</sup>

### Special measures of protection for indigenous children

The Court considered that the State’s task of adopting special measures of protection for indigenous children was crucially important. Such measures included the promotion and protection of their right to live according to their own culture, their own religion and their own language.<sup>23</sup> In addition, the Court has indicated that, for the full development of their personality in keeping with their world view, indigenous children need to be raised and brought up in their natural and cultural surroundings, because they possess a distinctive identity that connects them to their land, culture, religion and language.<sup>24</sup>

### Rights of the child in situations of armed conflict

The Court has repeatedly stated that “both the American Convention and the Convention on the Rights of the Child form part of an extremely comprehensive international *corpus juris* for the protection of children which should serve [...] to establish the content and scope of the general provision defined in Article 19 of the American Convention.” Furthermore, in the context of non-international armed conflicts, the obligations of the States in favor of children are defined in Article 4(3) of Protocol II Additional to the Geneva Conventions, which

<sup>18</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, para. 110.

<sup>19</sup> Cf. *Case of Fornerón and daughter v. Argentina*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 242, para. 105, paras. 138 and 139.

<sup>20</sup> Cf. *Case of Fornerón and daughter v. Argentina*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 242, para. 140.

<sup>21</sup> Cf. *Case of Fornerón and daughter v. Argentina*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 242, para. 105.

<sup>22</sup> Cf. *Case of Fornerón and daughter v. Argentina*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 242, para. 51.

<sup>23</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*, Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012 Series C No. 250, para. 143.

<sup>24</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012 Series C No. 250, para. 144.

establishes that: “[c]hildren shall be provided with the care and aid they require, and in particular: [...] all appropriate steps shall be taken to facilitate the reunion of families temporarily separated [...].” It should be recalled that the Court has indicated that “the special vulnerability owing to their condition as children is even more evident in a situation of internal armed conflict, [...] because it is the children who are least prepared to adapt or respond to this situation and, sadly, it is they who suffer its excesses disproportionately.”<sup>25</sup>

## Family

### Comprehensive protection of the rights of the family

The Court observed that the American Convention does not define a closed concept of family and, in particular, it does not define and protect a “traditional” model of the family. The concept of family life is not reduced to marriage and must include other *de facto* family ties where the parties live together outside of marriage. The Court reiterated that Article 11(2) of the American Convention is closely related to the family’s right to protection and the right to live in a family, recognized in Article 17 of the Convention, under which the State is obliged not only to establish and directly implement measures of protection for children, but also to facilitate, comprehensively, the development and strengthening of the family unit. The Court indicated that different treaty-based human rights bodies have indicated that there is no single model of a family, and therefore that this may vary.<sup>26</sup>

## Social approach to disabilities

### Disabilities and the special obligation of protection

The Court took into account that Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities defines the term “disability” as “a physical, mental, or sensory impairment, whether permanent or temporary, that limits the capacity to perform one or more essential activities of daily life, and which can be caused or aggravated by the economic and social environment.” Meanwhile, the Convention on the Rights of Persons with Disabilities establishes that persons with disabilities “include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

In this regard, the Court observed that these Conventions take into account the social model in order to approach disability, which means that disability is not defined exclusively by the presence of a physical, mental, or sensory impairment, but is interrelated with the barriers or limitations that exist in society that prevent those affected from exercising their rights effectively. The types of barriers or limitations that persons with functional disabilities usually encounter in society include physical and architectural, attitudinal and socio-economic obstacles, as well as barriers to communication.

<sup>25</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary objections, merits and reparations. Judgment of November 30, 2012 Series C No. 259, paras. 238 and 239.

<sup>26</sup> Cf. *Case of Atala Riffo and daughters v. Chile*. Merits, reparations and costs. Judgment of February 24, 2012, Series C No. 239, paras. 142 and 172.

Thus, the Inter-American Court reiterated that any individual in a vulnerable situation must be provided with special protection, owing to the special obligations that the State must meet in order to comply with the general obligations to respect and guarantee human rights. The Court recalled that it is not sufficient for States to abstain from violating rights, but it is essential that they adopt positive measures, to be determined in function of the particular needs for protection of the subject of law, due either to their personal situation or to the specific situation in which they find themselves, such as with a disability. Accordingly, it is the State's obligation to facilitate the inclusion of persons with disabilities through equal conditions, opportunities and participation in all spheres of society, so as to ensure that the limitations described above are dismantled. Consequently, States must promote practices of social inclusion and adopt positive differentiation measures to remove such barriers.<sup>27</sup>

### Reasonable time – persons with disabilities with a claim before the courts

Regarding the general effects on the legal situation of the person involved in the proceedings, the Court recalled that, if the passage of time has a relevant impact on the legal situation of the individual, the proceedings must advance with greater diligence so that the case is decided as soon as possible. Bearing this in mind, the Court established that, in cases of persons in a situation of vulnerability, as that of a person with a disability, it is essential to take the relevant measures, such as the responsible authorities giving priority to examining and deciding the proceedings, in order to avoid delays in the processing of the proceedings, so as to ensure a prompt decision and its swift execution.<sup>28</sup>

### Damage to the life project

Damage to the “life project” relates to the comprehensive development of those affected, taking into considering their vocation, aptitudes, circumstances, potential and aspirations, that allow them to establish, reasonably, certain expectations and achieve them. The life project is expressed through the expectations of personal, professional and family development that are possible under normal conditions. The Court has indicated that “damage to the life project” entails the loss or serious harm to opportunities of personal development that are irreparable or very difficult to repair. This damage stems from the limitations suffered by a person to establish relationships and to enjoy his or her personal, family and social surroundings, owing to severe injuries of a physical, mental, psychological or emotional nature. The comprehensive reparation of damage to the “life project” generally requires measures of reparation that go beyond simple pecuniary compensation, and consist of measures of rehabilitation and satisfaction, and guarantees of non-repetition.<sup>29</sup>

<sup>27</sup> Cf. *Case of Furlan and family members v. Argentina*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2012. Series C No. 246, paras. 132, 133 and 134.

<sup>28</sup> Cf. *Case of Furlan and family members v. Argentina*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2012. Series C No. 246, para. 194.

<sup>29</sup> Cf. *Case of Furlan and family members v. Argentina*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2012. Series C No. 246, para. 285.

## Right to prior, free and informed consultation of Indigenous and Tribal peoples and Communities

The Court analyzed further the obligation of the States to consult indigenous and tribal peoples and communities on any administrative or legislative measure that affects their rights recognized in domestic and international laws, as well as the obligation to ensure the rights of indigenous peoples to participate in decisions on matters that concern their interests, which entails the obligation to organize appropriately the whole governmental apparatus and, in general, all the structures through which public authority is exercised, in particular the laws and institutions, so that the consultation with indigenous, autochthonous, original or tribal communities can be conducted effectively, in keeping with the relevant international standards. Thus, the States must incorporate these standards into prior consultation procedures, in order to create channels for sustained, effective and reliable discussions with the indigenous peoples under the consultation and participation procedures, through their representative institutions.<sup>30</sup>

The Court also indicated that the State must ensure the right to consultation and participation at all stages of the planning and development of a project that may affect the territory on which an indigenous or tribal community is settled or other essential rights for their survival as a people, so that the indigenous peoples can truly participate in and influence the decision-making process, in keeping with the relevant international standards. To this end, as appropriate, the State must also monitor and control the implementation of such processes and, when pertinent, implement measures to protect this right effectively through the corresponding judicial organs.<sup>31</sup>

## Persons deprived of liberty

### Guarantees with regard to prison conditions

The Court reiterated that, in accordance with the Convention, every person deprived of liberty has a right to live in detention conditions that are compatible with his personal dignity, and that the State must ensure the right to life and to personal integrity of those deprived of liberty, because it occupies a special position of guarantor in relation to such persons, because the prison authorities exercise total control over them.<sup>32</sup> In this regard, the Court established that the State, as guarantor, must design and implement a prison policy to prevent critical situations that endanger the fundamental rights of the inmates.<sup>33</sup>

### Obligation of prevention with regard to prison conditions

The Court included considerations on the State's obligation of prevention in relation to prison conditions. Specifically, it mentioned the incorporation into its case law of the main standards for prison conditions that the State must guarantee for persons deprived of liberty. In particular: (a) overcrowding is, in itself, a violation of personal integrity; in addition, it

<sup>30</sup> Cf. *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*. Merits and reparations. Judgment of June 27, 2012. Series C No. 245, para. 166.

<sup>31</sup> Cf. *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*. Merits and reparations. Judgment of June 27, 2012. Series C No. 245, para. 167.

<sup>32</sup> Cf. *Case of Pacheco Teruel et al. v. Honduras*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 241, para. 63.

<sup>33</sup> Cf. *Case of Pacheco Teruel et al. v. Honduras*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 241, para. 68.

obstructs the normal performance of essential prison functions; (b) those who are being prosecute must be separated from those who have been convicted, and children from adults, to ensure that those deprived of liberty receive the treatment appropriate to their situation; (c) every person deprived of liberty must have access to drinkable water for their consumption and water for personal hygiene; (d) the food provided in prisons must be of good quality and sufficiently nutritious; (e) medical attention must be provided regularly, offering the necessary treatment, by qualified medical personnel, when necessary; (f) education, work and recreation are essential functions of prisons and must be provided to all those deprived of liberty in order to facilitate their rehabilitation and social reinsertion; (g) prison visiting must be guaranteed; imprisonment with a restricted visiting regime may be contrary to personal integrity in certain circumstances; (h) all cells must have sufficient natural or artificial light, ventilation and adequate conditions of hygiene; (i) latrines must be hygienic and private; (j) State may not argue financial difficulties to justify conditions that do not comply with the international minimum standards in this regard and that are so poor that they do not respect the inherent dignity of the human being, and (k) disciplinary measures that constitute cruel, inhuman or degrading treatment, including corporal punishment, prolonged isolation, and any other measure that severely jeopardizes the physical or mental health of the prisoner is strictly prohibited.<sup>34</sup>

### Preventive prison policy

The Court also established that the State, as guarantor, must design and apply a prison policy to prevent critical situations that endanger the fundamental rights of the inmates in its custody. Thus, the State must incorporate into the design, structure, construction, improvements, maintenance and operation of detention centers all the concrete mechanisms that reduce to a minimum the risk of situations of emergency or fires, and should these situations occur, to ensure that it can react with due diligence, ensuring the protection of the inmates or a safe evacuation of the premises. Such mechanisms include efficient fire detection and extinction systems, alarms, and action protocols in case of emergency that guarantee the safety of those deprived of liberty.<sup>35</sup>

### Enforced disappearance

#### Multiple human rights violations and permanent nature

Regarding enforced disappearance, this Court reiterated that the enforced disappearance of persons includes “multiple human rights violations” and its permanent or continuing nature, which subsists until “the whereabouts of the victim are known or his or her remains are found.” The Court analyzed the issue further and indicated that the “determination of whether or not this phenomenon has been constituted and its conclusion, if the remains are found, necessarily requires that the identity of the individual to whom the remains belong be established as accurately as possible.”<sup>36</sup> In addition, the Court’s case law has recognized that the deprivation of liberty, the direct intervention of State agents or their acquiescence, and

<sup>34</sup> Cf. *Case of Pacheco Teruel et al. v. Honduras*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 241, para. 67.

<sup>35</sup> Cf. *Case of Pacheco Teruel et al. v. Honduras*. Merits, reparations and costs. Judgment of April 27 2012 Series C No. 241, para. 68.

<sup>36</sup> *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 113, and *Case of Gudiel Álvarez (“Diario Militar”) v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 207.

the refusal to acknowledge the detention and reveal the fate or whereabouts of the person are elements of this phenomenon.<sup>37</sup> This means that the enforced disappearance of persons can result in the violation of different human rights such as the right to personal liberty (Article 7 of the American Convention),<sup>38</sup> to personal integrity (Article 5 of the Convention),<sup>39</sup> to life (Article 4 of the American Convention),<sup>40</sup> and to the recognition of juridical personality (Article 3 of the Convention).<sup>41</sup>

In addition, the Court reiterated the need to approach enforced disappearance from an integral perspective, owing to the multiplicity of the conducts that, combined towards a single objective, for while they persist they permanently violate legal rights protected by the Convention.<sup>42</sup> Consequently, the analysis of a possible enforced disappearance should not be focused in an isolated, divided and fragmented manner only on the detention, or the possible torture, or the risk of loss of life, but rather the focus must be on all the facts present in the specific case.<sup>43</sup>

## Enforced disappearance and investigation

The Court also reiterated that, since the prohibition of enforced disappearance has become a norm of *jus cogens*, the corresponding obligation to investigate it and, as appropriate, to prosecute and to punish those responsible, acquires special importance and significance in view of the severity of the crimes committed and the nature of the rights violated. Thus, the

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<sup>37</sup> Cf. *Case of González Medina and family members v. Dominican Republic*. Preliminary objections, merits, reparations and costs. Judgment of February 27, 2012. Series C No. 240, para. 128; *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 115; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 193, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 97.

<sup>38</sup> Cf. *Case of González Medina and family members v. Dominican Republic*. Preliminary objections, merits, reparations and costs. Judgment of February 27, 2012. Series C No. 240, para. 179; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 199, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 101.

<sup>39</sup> Cf. *Case of González Medina and Family members v. Dominican Republic*. Preliminary objections, merits, reparations and costs. Judgment of February 27, 2012. Series C No. 240, para. 180; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 204, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 106.

<sup>40</sup> Cf. *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 206, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 107.

<sup>41</sup> Cf. *Case of González Medina and Family members v. Dominican Republic*. Preliminary objections, merits, reparations and costs. Judgment of February 27, 2012. Series C No. 240, para. 186; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 210, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 110.

<sup>42</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 114; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 196, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 99.

<sup>43</sup> Cf. *Case of González Medina and Family members v. Dominican Republic*. Preliminary objections, merits, reparations and costs. Judgment of February 27, 2012. Series C No. 240, para. 175; *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 196, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 99.

obligation to investigate enforced disappearances committed in the context of a systematic practice, cannot be denied or conditioned by domestic decisions or legal provisions of any type, and States must therefore abstain from resorting to the application of amnesty laws or arguing prescription, the non-retroactivity of criminal laws, *res judicata* or the *non bis in idem* principle, or any similar element to exempt responsibility, in order to waive the obligation to investigate and prosecute those responsible.<sup>44</sup>

### Enforced disappearance and truth

The Court also established that the continuing denial of the truth to the families of persons forcibly disappeared in the context of an internal armed conflict, the concealment of State information during the transition process following the signature of peace accords ending the conflict, added to the impunity characterizing the investigations in the case, constituting a violation of the right of the next of kin to know the truth, in violation of their personal integrity (Article 5 of the American Convention).<sup>45</sup>

### Freedom of movement and residence – displacement and exile

According to the Court's case law, the right to freedom of movement and residence also protects the right not to be forcibly displaced within a State Party.<sup>46</sup> The Court has stressed the situation of vulnerability and defenselessness of those who are displaced, which is understood as a condition of absence of protection; therefore, States have the obligation to adopt positive measures to reverse the effects of this condition of weakness, vulnerability and helplessness.<sup>47</sup> Thus, the Court has indicated that the right to freedom of movement and residence may be violated by *de facto* restrictions, if the State does not establish the conditions or provide the means that allow this right to be exercised,<sup>48</sup> and this can also happen when a person is the victim of threats or harassment and the State fails to provide the necessary guarantees to ensure that he or she can move and reside freely in the territory in question.<sup>49</sup> Furthermore, the Court has stated that forced displacement and exile can be encouraged by the absence of an effective investigation into violent acts.<sup>50</sup> In addition, in its case law, it has highlighted that, in the case of indigenous peoples, displacement from their community may place them in a situation of special vulnerability, so that the State must adopt specific measures of protection.<sup>51</sup>

<sup>44</sup> Cf. *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 230, 232 and 327, and *Case of García and Family members v. Guatemala*. Merits, reparations and costs. Judgment of November 29, 2012. Series C No. 258, para. 131 and 196.

<sup>45</sup> Cf. *Case of Gudiel Álvarez ("Diario Militar") v. Guatemala*. Merits, reparations and costs. Judgment of November 20, 2012. Series C No. 253, para. 295 a 302.

<sup>46</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 172.

<sup>47</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 174.

<sup>48</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 175.

<sup>49</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 220.

<sup>50</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 221.

<sup>51</sup> Cf. *Case of the Río Negro Massacres v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250, para. 177.



## Right to freedom of movement and prohibition of collective expulsions

Regarding the right to freedom of movement and the prohibition of collective expulsions, the Court considered that a procedure that may result in the expulsion or deportation of an alien must, among other matters, be individual in order to evaluate the personal circumstances of each person and to comply with the prohibition of collective expulsions. In addition, this procedure must observe the following minimum guarantees in relation to the alien: (a) he must be informed, expressly and formally, of the charges against him and the reasons for the expulsion or deportation; (b) when an unfavorable decision has been taken, he must have the right to submit his case for review by the competent authority and appear before the latter to this end, and (c) the eventual expulsion may only be carried out following a founded and duly notified decision in keeping with the law.<sup>52</sup>

## Freedom of thought and expression

The Court reiterated that this provision protects the right to seek, receive and disseminate ideas and information of all kinds, as well as to receive and be aware of the information and ideas disseminated by others.<sup>53</sup> It also indicated that freedom of expression has two dimensions: an individual one, which includes the right to use any appropriate medium to disseminate opinions, ideas and information and to ensure that this reaches the greatest number of people, and a social one, which involves the right to know opinions, reports and news provided by third parties.<sup>54</sup> Thus, the Court has maintained in its case law that, when the public authorities take actions designed to prevent the “free circulation of information, ideas, opinions or news, there is ‘a radical violation of both the right of each person to express himself, and the right of everyone to be well informed, affecting one of the basic conditions of a democratic society.’<sup>55</sup>

## Measures of protection for journalists at special risk

The Court indicated that journalism can only be carried out freely when the persons who exercise this profession are not victims of threats or physical, mental or moral violence or other acts of harassment. Such acts constitute serious obstacles to the full exercise of freedom of expression.<sup>56</sup> In this regard, the Court also maintained that States have the obligation to adopt special measures of prevention and protection for journalists subject to special risk owing to the exercise of their profession, because of the type of events they cover, the public interest of the information they disseminate, or the area where they have to go to carry out their work, as well as for those who receive threats in relation to the dissemination of that information or because they have denounced or expedited investigations into the violations they suffered or those they found out about in the exercise

<sup>52</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012. Series C No. 251, para. 174.

<sup>53</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 137.

<sup>54</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 138.

<sup>55</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 139.

<sup>56</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 209.

of their profession. The States must adopt the necessary measures of protection to avoid attempts against the life and integrity of journalists in these conditions.<sup>57</sup>

## Threats and harassment during the search to obtain justice

The Court determined that, in the event of threats or harassment against a person who undertakes judicial actions or contacts the media in seeking to obtain justice owing to human rights violations committed by the security forces of a State, the right to freedom of expression contained in Article 13(1) has been violated. The Court also indicated that if, in the course of the threats or harassment, the person is subjected to criminal proceedings for slander, this may give rise to “an intimidating or inhibiting effect on the exercise of his freedom of expression.”<sup>58</sup>

## International human rights law and international humanitarian law

### Complementarity between international human rights law and international humanitarian law – protection of the civilian population in a situation of armed conflict

The Court reiterated that it is useful and appropriate to interpret the scope of the convention-based obligations in conjunction with the provisions of international humanitarian law, based on the latter’s specificity in certain areas; in particular the 1949 Geneva Conventions; Article 3 common to the four conventions; Protocol II Additional to the Geneva Conventions of 12 August 1949 and relating to the victims of non-international armed conflicts, and customary international humanitarian law.<sup>59</sup>

Thus, in this type of case, the special obligation of prevention, as part of the general obligation to ensure human rights (Article 1(1) of the American Convention), can be related to several principles of international humanitarian law applicable to the protection of the civilian population, such as the principle of precaution, a customary norm for international and non-international armed conflicts according to which, *inter alia*, “[i]n the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects,” and that “[a]ll feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”<sup>60</sup>

The principle of distinction refers to a customary norm of international humanitarian law for international and non-international armed conflicts which establishes that “[t]he parties to the conflict must at all times distinguish between civilians and combatants,” that “attacks may only be directed against combatants” and that “[a]ttacks must not be directed against civilians.” In addition, “[t]he parties to the conflict must at all times distinguish between civilian objects and military objectives,” so that “[a]ttacks may only be directed against

<sup>57</sup> Cf. *Case of Vélez Restrepo and Family members v. Colombia*. Preliminary objection, merits, reparations and costs. Judgment of September 3, 2012. Series C No. 248, para. 194.

<sup>58</sup> Cf. *Case of Uzcátegui et al. v. Venezuela*. Merits and reparations. Judgment of September 3, 2012. Series C No. 249, para. 189.

<sup>59</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary objections, merits and reparations. Judgment of November 30, 2012 Series C No. 259, para. 187.

<sup>60</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary objections, merits and reparations. Judgment of November 30, 2012 Series C No. 259, paras. 188 to 191 and 216.

military objectives.” Similarly, paragraph 2 of Article 13 of Protocol II Additional to the Geneva Conventions prohibits either civilians or the civilian population as such being the object to attack.<sup>61</sup> Other prohibited conduct includes indiscriminate attacks “which employ a method or means of combat which cannot be limited as required by international humanitarian law [...] and, consequently, [...] are of a nature to strike military objectives and civilians or civilian objects without distinction.”

## Standards for the use of force and principles of legality, necessity and proportionality

The Court considered that when the use of force is essential this must be used in accordance with the principles of legality, necessity and proportionality. *Legality*: the use of force must be aimed at achieving a legitimate goal; *Absolute necessity*: it must be verified whether other means are available to protect the life and safety of the person or situation that it seeking to protect, in keeping with the circumstances of the case; *Proportionality*: The level of force used must be in keeping with the level of resistance offered.<sup>62</sup> In addition, the Court observed that, according to the United Nations Principles on the Use of Force, if anyone is injured owing to the use of force, assistance and medical aid should be ensured and rendered, and relatives or close friends should be notified at the earliest possible moment. Also, the incident should be reported promptly, and reports should be subject to review by administrative and prosecutorial authorities. Similarly, the facts should be investigated in order to determine the level and form of participation of all those who intervened, either directly or indirectly, thereby establishing the corresponding responsibilities.<sup>63</sup>

Furthermore, in the case of administrative offenses, such as migratory infractions, the State must ensure appropriate training to deal with the type of offense and the situation of vulnerability of migrants. Regarding the methods used, the Court reiterated that States have the obligation to adequately plan the activities of their official in order to minimize the use of force and the fatalities that could occur.<sup>64</sup>

## Right to private property in situations of armed conflict

The Court considered it useful and appropriate to interpret the scope of Article 21 of the Convention using other international treaties such as Protocol II to the Geneva Conventions of 12 August 1949 and relating to the protection of the victims of non-international armed conflicts or the pertinent provisions of customary international humanitarian law. Thus, Rule 7 of Customary International Humanitarian Law establishes that: “[t]he parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.” Regarding looting, the Court also observed that this act is expressly prohibited in Article 4.2.g. of I Protocol II of 1977 and that the seizure of a possession in the context of an armed conflict without its owner’s consent is an act prohibited by humanitarian law.<sup>65</sup>

<sup>61</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary objections, merits and reparations. Judgment of November 30, 2012 Series C No. 259, para. 212.

<sup>62</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012. Series C No. 251, para. 85.

<sup>63</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012. Series C No. 251, para. 99.

<sup>64</sup> Cf. *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, reparations and costs. Judgment of October 24, 2012. Series C No. 251, para. 88.

<sup>65</sup> Cf. *Case of the Santo Domingo Massacre v. Colombia*, paras. 270 and 271.

## Amnesties in internal armed conflicts

The Court stated that according to the international humanitarian law applicable to acts committed in the context of an internal armed conflict, amnesty laws may at times be justified on the ending of hostilities in non-international armed conflicts to make the return to peace possible. However, this norm is not absolute because, under international humanitarian law the States also have an obligation to investigate and prosecute war crimes. Thus, “those suspected or accused of having committed war crimes, or who have been convicted of this” cannot be covered by an amnesty. Consequently, it can be understood that Article 6.5 of Additional Protocol II refers to broad amnesties for those who have taken part in the non-international armed conflict or are imprisoned for reason related to the armed conflict, provided that this does not involve acts that fall within the category of war crimes and even crimes against humanity.<sup>66</sup>

## Right to appeal a judgment before a superior court or judge

The Court has ruled on the scope of Article 8(2)(h) of the Convention with regard to criminal convictions issued when deciding an appeal against acquittal. Article 8(2) refers, in general, to the minimum guarantees of a person who is subject to a criminal investigation and proceedings, and must be protected in the context of the different stages of the criminal proceedings, which include the investigation, indictment, prosecution and conviction. The Court established that the right to appeal a judgment cannot be effective if it is not guaranteed with regard to every person who is convicted, and that it is contrary to the purpose of that specific right if it is not guaranteed for the person convicted by a judgment that revokes an acquittal. A contrary interpretation would entail leaving the convicted man without any recourse against the conviction.<sup>67</sup>

The Court also referred to the content of the guarantee granted by Article 8(2)(h) of the Convention. The Court stressed that the right to appeal a judgment seeks to protect the right to a defense, and reiterated that Article 8(2)(h) of the Convention refers to an ordinary accessible and effective remedy, which implies, *inter alia*, that: it must be guaranteed before the judgment becomes *res judicata*; it must endeavor to provide results or answers for the purpose for which it was conceived, and the formalities required for the appeal to be admitted must be minimum and must not represent an obstacle for the remedy to fulfill its purpose of examining and resolving the claims alleged by the appellant.<sup>68</sup>

Furthermore, the Court indicated that, irrespective of the regime or system of appeal adopted by the States Parties and the name given to the means of contesting a conviction, in order for this to be effective it must constitute an adequate means to obtain the rectification of an erroneous conviction. This means that it must be able to analyze the factual, probative and legal matters on which the contested judgment was based. Consequently, the grounds for the admissibility of the remedy must make it possible to carry out a wide-ranging review of the contested aspects of the guilty verdict.<sup>69</sup> The regulations that States develop under their respective appeal regimes must ensure that this remedy against a conviction respects

<sup>66</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*. Merits, reparations and costs. Judgment of October 25, 2012 Series C No. 252. Paras. 285 and 286.

<sup>67</sup> Cf. *Case of Mohamed v. Argentina*. Preliminary objection, merits, reparations and costs. Judgment of November 23, 2012 Series C No. 255, paras. 91 and 92.

<sup>68</sup> Cf. *Case of Mohamed v. Argentina*. Preliminary objection, merits, reparations and costs. Judgment of November 23, 2012 Series C No. 255, paras. 98 and 99.

<sup>69</sup> Cf. *Case of Mohamed v. Argentina*. Preliminary objection, merits, reparations and costs. Judgment of November 23, 2012 Series C No. 255, para. 100.

the minimum procedural guarantees that, under Article 8 of the Convention, are relevant and necessary to decide the grievances claimed by the appellant; however, this does not mean that a new oral proceedings must be conducted.<sup>70</sup>

## Interpretation on the word “conception” in Article 4 of the American Convention

In this regard, the Court underlined that all scientific evidence distinguishes two complementary and essential moments in embryonic development: fertilization and implantation. The Court observed that it was only after fulfillment of the second moment closing the cycle that it can be understood that conception has taken place. Taking into account the scientific evidence presented by the parties, the Court noted that, following fertilization, the egg becomes a different cell with sufficient genetic information for the potential development of a “human being,” nevertheless if this embryo is not implanted in a woman’s body, its possibilities of development are nil. If an embryo is never able to implant in the uterus, it cannot develop, because it would not receive the necessary nutrients and would not be in an appropriate environment for its development. Thus, the Court understood that the word “conception” could not be understood as a moment or process outside a woman’s body, because an embryo had no possibility of survival if implantation did not occur. Bearing this in mind, the Court understood the word “conception” as the moment in which implantation occurs, and therefore considered that, before this event, it was not appropriate to apply Article 4 of the American Convention.<sup>71</sup>

## Interpretation of Article 4 (Right to Life) of the American Convention

Regarding the American Convention, the Court observed that, during the preparatory work, the words “person” and “human being” were used without the intention of differentiating between them. Article 1(2) of the Convention clarifies that the two terms should be understood as synonyms.

The Court indicated that the expression “every person” is used in numerous articles of the American Convention and the American Declaration. When analyzing all these articles, it is not feasible to maintain that an embryo is the holder of and exercises the rights embodied in each of these articles. In addition, taking into account the previous consideration, that conception only occurs within a woman’s body, it is possible to conclude, in relation to Article 4(1) of the Convention, that the direct object of protection is fundamentally the pregnant woman, because the unborn child is protected essentially by the protection of the woman.

The purpose of Article 4(1) of the Convention is to safeguard the right to life without this entailing the denial of other rights protected by the Convention. Thus, the expression “in general” has the object and purpose of permitting, when there are competing rights, that it is possible to invoke exceptions to the protection of the right to life from the moment of conception. In other words, the object and purpose of Article 4(1) of the Convention is that

<sup>70</sup> Cf. *Case of Mohamed v. Argentina*. Preliminary objection, merits, reparations and costs. Judgment of November 23, 2012 Series C No. 255, para. 101.

<sup>71</sup> Cf. *Case of Artavia Murillo et al. (In vitro fertilization) v. Costa Rica*. Preliminary objections, merits, reparations and costs. Judgment of November 28, 2012. Series C No. 257, paras. 186, 187 and 188.

the right to life should not be understood as an absolute right, the alleged protection of which can justify the total denial of other rights.

The Court used different methods of interpretation, which led to the same results to the effect that the embryo cannot be understood as a person for the effects of Article 4(1) of the American Convention. Furthermore, following an analysis of the available scientific information, the Court concluded that “conception,” in the sense of Article 4(1), takes place at the moment in which the embryo is implanted in the uterus, so that prior to this event, it would not be appropriate to apply Article 4 of the Convention. In addition, it is possible to conclude from the expression “in general” that the protection of the right to life under this provisions is not absolute, but rather gradual and incremental according to its evolution, because it is not an absolute and unconditional right, but rather entails understanding the admissibility of exceptions to the general rule.<sup>72</sup>

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<sup>72</sup> Cf. *Case of Artavia Murillo et al. (In vitro fertilization) v. Costa Rica*. Preliminary objections, merits, reparations and costs. Judgment of November 28, 2012. Series C No. 257, paras. 219, 222, 258 and 264.

## VI. Expanding the horizons of inter-American justice: Victims' Legal Assistance Fund and Inter-American Public Defender

In 2010, in order to improve access to inter-American justice, the Court introduced two significant modifications into its Rules of Procedure concerning the Legal Assistance Fund and the Inter-American Defender.

### Legal Assistance Fund of the Inter-American Court

On February 4, 2010, the Court's Rules for the Operation of the Victims' Legal Assistance Fund were issued ([Annex 82](#)), and they entered into force on June 1, 2010. The purpose of the Legal Assistance Fund (hereinafter, "the Fund") is to facilitate access to the inter-American human rights system to those persons who, at the present time, do not have the necessary resources to bring their case before the Court. Thus, once their case has been submitted to the Court, anyone who does not have the financial resources to cover the expenses resulting from proceedings before the Court may request assistance from the Victims' Fund. With the creation of the Victims' Legal Assistance Fund, the Court has taken a giant step towards enhancing and expanding the horizons of inter-American justice by establishing a mechanism that will ensure that those without the necessary financial resources are not excluded from access to the Inter-American Court.

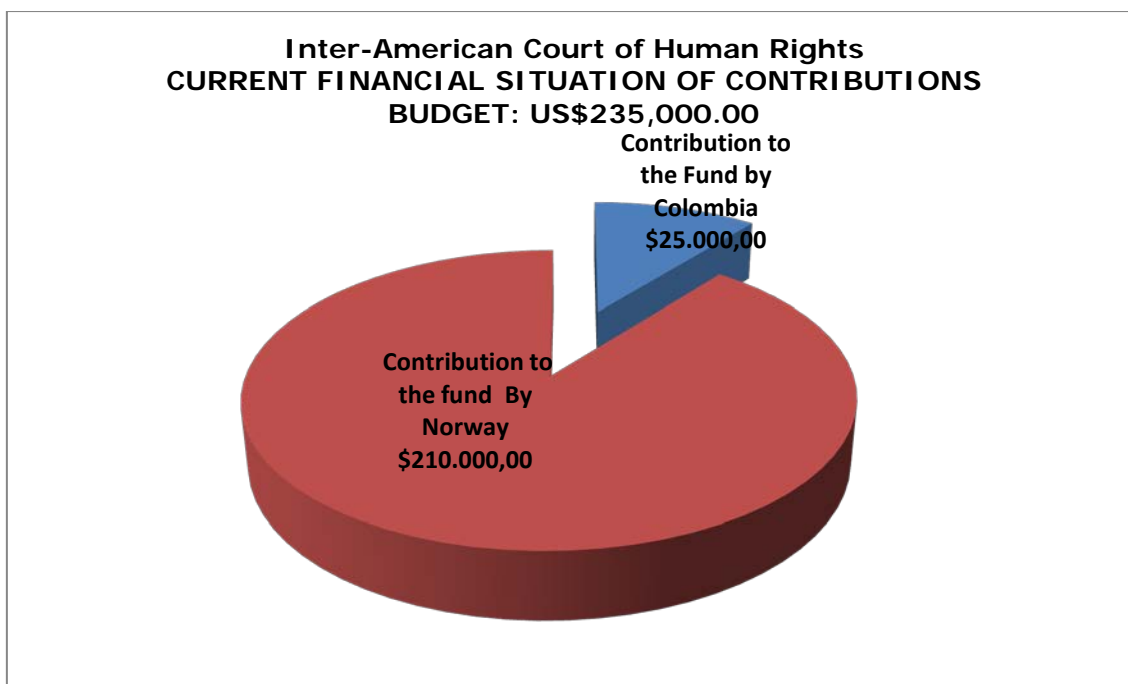
The President of the Court is responsible for deciding whether or not an alleged victim may make use of the Fund's resources. According to the Court's Rules on the Operation of the Victims' Legal Assistance Fund, alleged victims who wish to benefit from the Fund should inform the Court in their brief with pleadings, motions and evidence. In addition, they must authenticate, by means of a sworn declaration or other appropriate means of proof that are satisfactory to the Court, the lack of sufficient financial resources to cover the costs of litigation before the Court and indicate precisely which aspects of their defense during the proceedings require resources from the Victims' Legal Assistance Fund.

The Court's Secretariat will make a preliminary examination of the application for assistance and will request the applicant to forward any information required to complete the file before submitting it to the consideration of the President of the Court. The President will evaluate each application to determine whether or not it is admissible, and will indicate which aspects of the defense can be covered by the Victims' Legal Assistance Fund.

Once the President has determined that the request is admissible and his decision has been notified, the Court's Secretariat opens a file of expenditures for each case, in which it records each payment made, in accordance with the parameters authorized by the President. The Court's Secretariat will inform the defendant State of the disbursements made from the Fund, so that it can submit any observations it wishes within the time frame established to this effect.

The States have the obligation to reimburse the Fund for the disbursements made in the cases in which they are found internationally responsible for the violation of human rights, so that the amount disbursed will again be available for future victims who apply to it.

The Court's Secretariat administers the Fund, which does not receive resources from the regular budget of the OAS. This has led the Court to seek voluntary contributions to ensure its availability. The Funds come from the cooperation project signed with Norway for the period 2010-2012, under which US\$210,000 was provided to the Legal Assistance Fund, and the donation of US\$25,000 to the Fund made by Colombia. In December 2012, the Fund consisted of US\$156,605.00.



During 2012, the President issued six orders approving access to the Fund in the following cases: Case of *Mendoza et al. v. Argentina*, Order of May 8, 2012 ([Annex 83](#)), in which the President decided to grant the financial assistance necessary for the presentation of a maximum of five statements; Case of *Norin Catrimán et al. v. Chile*, Order of May 18, 2012 ([Annex 84](#)), in which it was decided to grant financial assistance for a maximum of four statements; Case of *Mohamed v. Argentina*, Order of June 4, 2012 ([Annex 85](#)), in which it was decided to grant the financial assistance necessary for the appearance of an expert witness at the public hearing, for the alleged victim and an expert witness to provide their statements by affidavit, and for the travelling and accommodation costs for the two inter-American defenders to attend the public hearing; Case of *Cruz Sánchez et al. v. Peru*, Order of August 28, 2012 ([Annex 86](#)) (this order was issued by the acting President case), in which it was decided to grant financial assistance for the presentation of a maximum of four statements; Case of *Suárez Peralta v. Ecuador*, Order of September 14, 2012 ([Annex 87](#)), in which it was decided to grant financial assistance for the presentation of a maximum of four statements; Case of *J v. Peru*, Order of October 24, 2012 ([Annex 88](#)), in which it was decided to grant financial assistance for the presentation of a maximum of two statements and appearance of a representative at the public hearing (this order was issued by the acting President case).

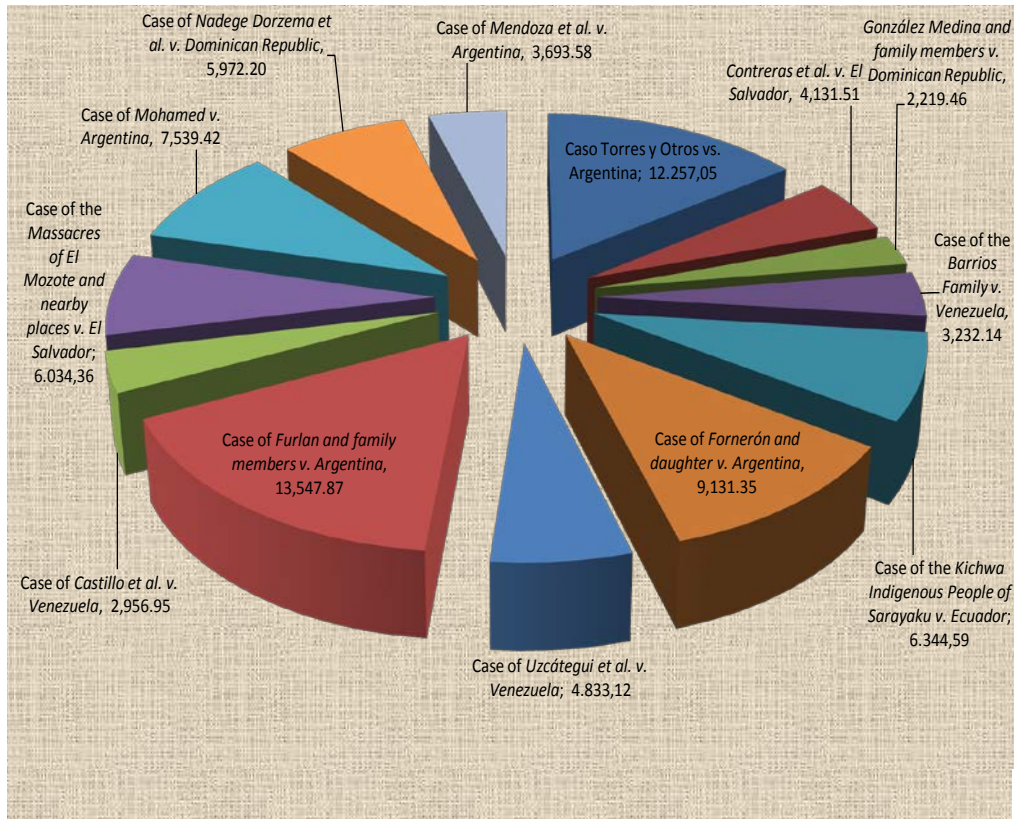
In 2012, the Court ordered the respective States to reimburse the disbursement from the Fund in eight cases: Case of *González Medina and family members v. Dominican Republic*, Judgment of February 27, 2012; Case of *Fornerón and daughter v. Argentina*, Judgment of April 27 2012; Case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*, Judgment of June 27, 2012; Case of *Furlan and family members v. Argentina*, Judgment of August 31,



2012; Case of *Uzcátegui et al. v. Venezuela*, Judgment of September 3, 2012; Case of *Nadege Dorzema et al. v. Dominican Republic*, Judgment of October 24, 2012; Case of the *Massacres of El Mozote and nearby places v. El Salvador*, Judgment of October 25, 2012; Case of *Mohamed v. Argentina*, Judgment of November 23, 2012.

During its two years of operation, the disbursements from the Fund correspond to the following 13 cases: Case of *Torres et al. v. Argentina*, US\$12,257.05; Case of *Contreras et al. v. El Salvador*, US\$4,131.51; Case of *González Medina and family members v. Dominican Republic*, US\$2,219.46; Case of the *Barrios Family v. Venezuela*, US\$3,232.14; Case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*, US\$6,344.59; Case of *Fornérón and daughter v. Argentina*, US\$9,131.35; Case of *Uzcátegui et al. v. Venezuela*, US\$4,833.12; Case of *Furlan and family members v. Argentina*, US\$13,547.87; Case of *Castillo et al. v. Venezuela*, US\$2,956.95; Case of the *Massacres of El Mozote and nearby places v. El Salvador*, US\$6,034.36; Case of *Mohamed v. Argentina*, US\$7,539.42; Case of *Nadege Dorzema et al. v. Dominican Republic*, US\$5,972.20; Case of *Mendoza et al. v. Argentina*, US\$3,693.58. The foregoing add up to a total of US\$81,893.60. Of the 13 cases that have benefited from the Fund, in only one case (*Contreras et al. v. El Salvador*) have the expenses been reimbursed, and this corresponds to only 8% of the total. The remaining 92% corresponding to 12 cases remains pending. This situation jeopardizes the future solvency and operation of the Fund, with all that this implies for effective access to inter-American justice.

**INTER-AMERICAN COURT OF HUMAN RIGHTS**  
**BUDGET: VICTIMS' LEGAL ASSISTANCE FUND: US\$235,000.00**  
 TOTAL USE OF FUND FOR 13 CASES: US\$81,893.60

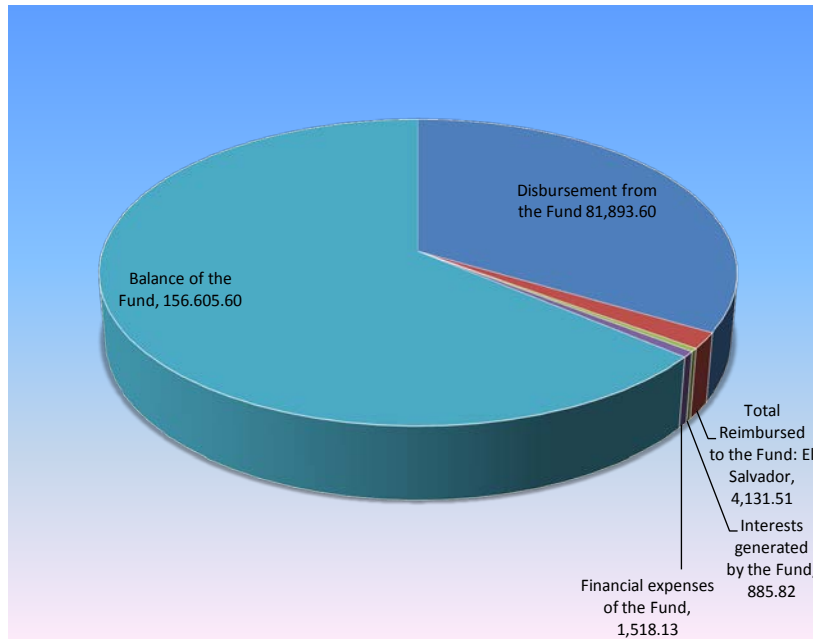


**INTER-AMERICAN COURT OF HUMAN RIGHTS**

## CURRENT FINANCIAL SITUATION OF THE FUND

BUDGET: US\$235,000.00

BALANCE: US\$156,605.60



During 2012, under international cooperation agreements, the Court obtained additional funds for the operation of the Fund for the next three years (2013-2015). Norway contributed US\$180,000 and Denmark US\$120,000. Currently, the Fund has US\$456,605.00 available.

The Victims' Legal Assistance Fund has been audited by the external auditors of the Inter-American Court, *Venegas y Colegiados*, representatives of HLB International. In this regard, the audited financial statements for the financial exercises January 1 to December 31, 2010, and January 1 to December 31, 2011, have been approved, indicating that, in all important aspects, they present the income and available funds in keeping with generally accepted accounting and auditing principles. Also, the auditor's reports state that the disbursements have been administered correctly, that no illegal activities or corruption have been discovered, and that the funds have been used exclusively to cover the expenses of the Victims' Fund operated by the Inter-American Court of Human Rights.

## Inter-American Public Defender

One of the main contributions of the Court's current Rules of Procedure, in force since January 1, 2010, was the creation of the mechanism of the Inter-American Public Defender. Thus, the reform of the Rules of Procedure sought to guarantee access to inter-American justice by granting free legal aid to alleged victims who did not have the financial resources or lacked legal representation before the Court. Accordingly, in order to implement the concept of inter-American defender, in 2010, the Court signed a Memorandum of Understanding with the Inter-American Association of Public Defenders (AIDEF).

In those cases in which the alleged victims lack financial resources and/or legal representation before the Court, the AIDEF will appoint a public defender who belongs to the Association to assume their legal representation and defense during the entire proceedings in order to ensure that their rights are guaranteed.

When an alleged victim does not have legal representation in a case, the Court will inform the AIDEF General Coordinator so that, within 10 days, the latter may appoint the defender who will assume the legal representation and defense, and also advise the Court where the relevant communications should be notified. The Court will then forward the documentation relating to the case before the Court to the person appointed as the AIDEF public defender and, from that time on, this person will assume the legal representation and defense of the alleged victim before the Court throughout the processing of the case.

As mentioned above, the legal representation before the Inter-American Court by the person appointed by the AIDEF is provided free of charge, and the latter will charge only the expenses arising from the defense. The Inter-American Court of Human Rights will pay the reasonable and necessary expenses that the respective inter-American defender incurs, insofar as possible, and through the Victims' Legal Assistance Fund

During 2012, legal assistance by the Inter-American Defender was decided in the following cases: *Case of Pacheco Tineo v. Bolivia* and *Case of Argüelles et al. v. Argentina*. Thus, to date there are four cases in which this legal assistance is being provided through the Inter-American Public Defender and, in two of them, the judgment has already been handed down: *Case of Furlan and family members v. Argentina* and *Case of Mohamed v. Argentina*.

## VII. Use of new technologies

### Live transmission of public hearings

Since 2011, the Court has been implementing as a permanent practice live transmission, through its website, of the public hearings and some academic activities carried out during its sessions. The purpose is to implement the principle of publicity at the international level, because the public hearings must be accessible not only to those who are able to attend them in person.

The audiovisual recording of these events is stored on a multimedia platform so that it can be consulted by anyone, at any time, by means of the following link: <http://vimeo.com/corteidh>. The public response to the start of the live transmissions is reflected by the fact that thousands of people have viewed the public hearings and academic activities by Internet.

The live transmission of the Court's activities responds to its efforts to allow more people to have access to its jurisdictional work at the inter-American level. The live transmissions achieve the objective of spreading the work of the Court, giving greater publicity to the facts that have harmed the victims and, above all, disseminating the discussion and analysis of different issues of the inter-American human rights reality, because the discussion and dialogue on these topics encourages the participation of the general public in the system.

### Testimony by audiovisual means

This year, for the second time and exceptionally, the testimony of an alleged victim was provided by an audiovisual medium during the public hearing in *the Case of Mendoza et al. v. Argentina*. The video of the hearing is available at the following link: [Case of Mendoza et al. v. Argentina](#).

### Reception and transmission by electronic means

With the adoption of the amendments to its Rules of Procedure, the Court began to receive and transmit briefs by electronic means. This practice has been adopted in order to ensure greater speed and to reduce costs throughout the proceedings before the Court. In addition, it forms part of a series of strategic measures introduced so that the Court can conduct its jurisdictional activities respecting environmental guidelines.



## VIII. 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.” In accordance with Article 26 of its Statute, the Court administers its own budget.

The total income that the Court received for its functioning during the 2012 financial year was US\$3,638,143.13. This income came from regular and special resources. The regular resources from the OAS budget for 2012 amounted to US\$2,161,000. However, on October 19, 2012, the General Secretariat advised that there would be a 1.7% reduction, corresponding to US\$36,767.00, thus the total was US\$2,124,233.00. That amount from the OAS represents only 58.39% of the Court’s income for the year. The remaining funds - US\$1,513,910.13 – correspond to special funds from international cooperation and voluntary contributions from States and other institutions. Thus the Court has to obtain these funds to cover the costs of its regular operation. The voluntary contributions and international cooperation cover 41.61% of the Court’s activities. Without them, the Inter-American Court would have to reduce drastically its jurisdictional activities, making the protection of human rights in the Americas ineffective. Thus, it is a matter of some concern that a high percentage the Court’s regular expenses is covered by voluntary contributions rather than by regular resources of the OAS.

In 2012, the Court received, for its functioning, voluntary contributions from the following States and institutions:

Government of Colombia, through its Permanent Mission to the OAS: US\$130,000.00.

Government of Costa Rica, under the Seat Agreement: US\$103,736.62.

Government of Mexico: US\$300,000.00, received in two equal parts on February 3 and October 5, 2012.

Government of Chile, through its Embassy in Costa Rica: US\$10,000.00.

United Nations High Commission for Refugees (UNHCR): US\$5,000.00.

Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina: US\$22,000.00.

During 2012, the Court continued executing the following international cooperation projects:

### Spanish International Cooperation Agency for Development (AECID)

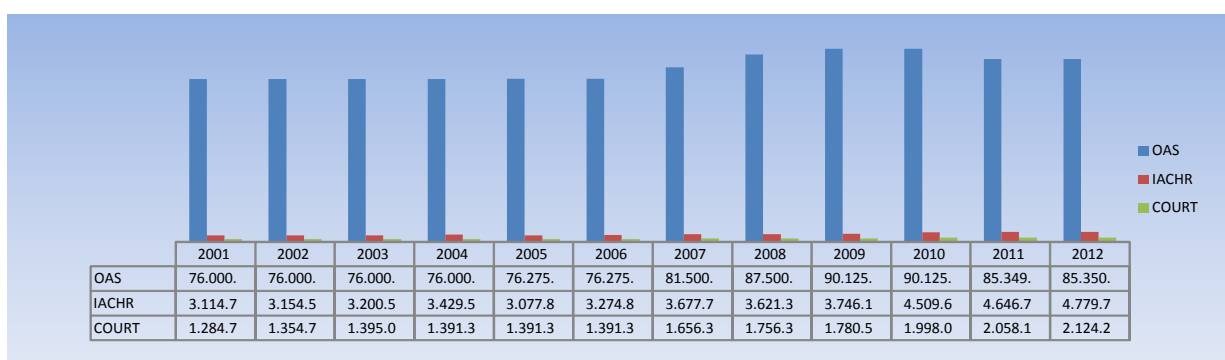
Project to strengthen monitoring of the implementation of the non-pecuniary reparations and the provisional measures ordered by the Inter-American Court of Human Rights (CDH 110), first stage: April 2012 to March 2013: US\$280,000.00 (contribution recorded at the end of the 2012 financial year).

### Norwegian Ministry of Foreign Affairs:

Program “Enhancing the Inter-American Court of Human Rights 2010-2012.” The sum of US\$646,924.94 was received for this project in 2012.

#### COMPARISON OF DISTRIBUTION OF THE BUDGET BY YEAR

OAS/IACHR/ICourtHR  
2001 -2012



### Proposal to strengthen the finances of the Inter-American Court (2011-2015)

On June 8, 2011, following the OAS General Assembly held in San Salvador, El Salvador, from June 5 to 7, the Court convened a working meeting with the OAS Member States, the OAS Permanent Observers, and various cooperation agencies to present its “Guidelines 2011-2015: Strengthening inter-American justice by appropriate and predictable financing.”

The purpose of the guidelines is to show the gradual, but necessary, steps that are required to strengthen inter-American human rights justice sustainably, based on the constant increase in the Court’s workload. In addition, these guidelines present a financial solution that will allow the Court to respond satisfactorily, as regards both time and manner, to the different cases of alleged human rights violations submitted to its consideration. To this end, the guidelines proposed a strategic plan to be implemented from 2011 to 2015. The document is available at: <http://scm.oas.org/pdfs/2011/CP27341S1.pdf>

## Budget from the Regular Fund approved for 2013

The Special General Assembly of the OAS in its XLIII Special Sessions held in Washington, DC, on November 15, 2012, approved a budgetary allocation for the Court of US\$2,661,000.00 for 2013. This signifies an increase of 23.1% compared to the contribution approved the previous year.

It should be noted that, during its XLI Regular Session, held in San Salvador from June 5 to 7, 2011, in Resolution AG/RES. 2652 (XLI-O/11), the OAS General Assembly decided that the General Secretariat of the Organization must “assume the cost of translating to all the official languages the judgments and decisions issued by the Inter-American Court [...], so as to guarantee full access to them by all inhabitants of the Hemisphere.” Nevertheless, the Court notes that this mandate has not been fulfilled, because the corresponding amount to guarantee this mandate, essential for equal access to inter-American justice by all the peoples of the Americas, was not included in the 2012 budget or in the budget for 2013. The text of the said resolution is available at: <http://www.oas.org/consejo/sp/AG/resoluciones-declaraciones.asp>.

## Audit of the financial statements

During 2012, an audit was conducted of the Inter-American Court's financial statements for the 2011 financial year. It covered all the funds administered by the Court, including the funds from the OAS, the contribution of the Costa Rican Government, the funds from international cooperation, and also the contributions from other States, universities and other international agencies. However, the Victims' Legal Assistance Fund is administered separately from the Court's finances. The financial statements are prepared by the administrative unit of the Inter-American Court and the audit was carried out in order to obtain an opinion to determine the validity of the Court's financial transactions, taking into account generally accepted international accounting and auditing principles.

According to the March 31, 2012, report by *HLB Venegas y Colegiados*, authorized public accountants, the Court's financial statements adequately reflect the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2011, which are in keeping with generally accepted and consistently applied accounting principles for non-profit organizations (such as the Court). The report of the independent auditors shows that the internal accounting control system used by the Court is suitable for recording and controlling transactions and that reasonable business practices are used to ensure the most effective use of the funds provided.

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



## IX. Other activities of the Court

The following are among the most important activities implemented by the Court during 2102:

### Visit of Judges of the African Court on Human and Peoples' Rights to the Inter-American Court of Human Rights, San José, Costa Rica

From February 27 to March 2, 2012, the Court received the visit of a delegation of judges from the African Court on Human and Peoples' Rights composed on Judge Augustino Ramadhani (Tanzania), Judge Duncan Tambala (Malawi), Judge Sylvain Ore (Côte d'Ivoire), Judge Thompson Elsie (Nigeria) and Nzamwita Gakumba (Rwanda). The reason for the visit was to carry out an exchange of experiences and challenges between the two courts to enhance the protection



of human rights. The judges of the Inter-American Court explained the evolution of their work and its impact. For their part, the judges of the African Court described the evolution of the Court and the challenges it faced in future. It was agreed to hold further meetings of this type in order to continue sharing ideas and experiences in the future. Also, on this occasion, the members of the African Court attended the public hearing in the case of *Furlan and family v. Argentina*

### Presentation of the 2011 Annual Report of the Inter-American Court, Washington D.C., United States

On March 29, 2012, the President of the Inter-American Court, Judge Diego García-Sayán, accompanied by the Vice President Manuel Ventura Robles, the Secretary, Pablo Saavedra Alessandri and the Deputy Secretary, Emilia Segares Rodríguez, presented the 2011 Annual Report on the work of the Inter-American Court to the OAS Committee on Juridical and Political Affairs.

### Presentation to the XLII General Assembly of the Organization of American States, Cochabamba, Bolivia

During the XLII OAS General Assembly held in Cochabamba, Bolivia, from June 3 to 5, 2012, the President of the Inter-American Court, Diego García-Sayán, addressed a plenary session. The Inter-American Court was also represented by its Vice President, Judge Manuel Ventura Robles and its Secretary, Pablo Saavedra Alessandri.

On this occasion, the President referred to the importance and of the case law developed by the Court and the significant impact it has had. He also referred to the fundamental principles that are rigorously protected within proceedings conducted by the Inter-American Court, mentioning the adversarial principle, the time taken by the Court to decide the cases, their importance and the right of the victims to be duly and suitably present during the proceedings.

The President also referred to the issue of financing, given that this is a major challenge for the Court. Lastly, he emphasized the importance accorded by the Inter-American Court to holding public hearings in countries other than the one in which it has its seat.

The same day, the OAS General Assembly approved the 2011 Annual Report of the Court by Resolution AG/RES. 2759 (XLII-O/12), available at:

<http://www.oas.org/consejo/sp/AG/resoluciones-declaraciones.asp>

### Visit of members of the Third Section of the Colombian Council of State, San José, Costa Rica

On the 20, 21 and 22 of June, 2012, the Court received a visit of members of the Third Section of the Colombian Council of State, composed of Mauricio Farjado Gomez, Enrique Gil Botero, Danilo Alfonso Rojas Betancourth, Jaime Orlando Santofimio Gamboa, Ruth Stella Correa Palacio and Olga Valle de la Hoz, who attended several hearings and held a working meeting with all the Court's Judges. During the meeting, information and opinions were exchanged on the tools used by the Court to determine reparations. The members of the Council of State revealed their openness to establishing reparations that are not of a financial nature; also, the influence that the Inter-American Court's case law has had in this regard. For its part, the Court underlined the way in which the Council of State establishes financial reparations. Furthermore, it was agreed that this dialogue and exchange of experiences should developed further and also the need to continue carrying out joint activities in the future

### Visit of Judges of the European Court of Human Rights to the Inter-American Court of Human Rights, San José, Costa Rica

From August 29 to September 1, 2012, the Court received the visit of a delegation of judges from the European Court of Human Rights headed by its President, Sir Nicolas Bratza (Great Britain), who was accompanied by the Vice Presidents, Josep Casadeval (Andorra) and Dean Spielmann (Luxembourg). Santiago Quesada from the European Court's Secretariat was also part of the delegation. The visit corresponded to the visit that the President of the Inter-American Court had made to the European Court in 2011. The reason for the European Court's visit was to continue the exchange of experiences and opinions between the two courts in order to enhance the jurisdictional policies for the protection of human rights. During the visit, topics of mutual interest, such as the dynamics of the work of each court, the processing of cases, and the issue of reparations were discussed.

## Visit of the President of the Inter-American Court of Human Rights to the European Commission, Brussels, Belgium

On September 11, the President of the Inter-American Court, Diego García-Sayán, made a presentation to the European Commission in Brussels. The purpose of his visit was to hold an official working meeting to establish and implement cooperation with the European Union, for the first time in the Court's history.

On September 11, the President made a presentation to the Working Party on Latin America (COLAT) in the presence of the heads of delegation of all the member countries. On that occasion, the President of the Court described the structure and functions of the Court, essential aspects of the Court's case law, and the impact of the Inter-American Court's judgments on the judgments and criteria of domestic judges.

On the same occasion, the President of the Court held a working meeting with the Executive Director for the Americas of the European Union, Christian Leffler.

## Presentation by the President of the Inter-American Court at the World Forum for Democracy, Strasbourg, France

From October 5 to 11, the President of the Inter-American Court, Diego García-Sayán, was invited by the Council of Europe and the Government of France to the World Forum for Democracy, held in Strasbourg. There, he made a presentation on the experience and impact of the Inter-American Court of Human Rights. The Secretary-General of the United Nations, Ban Ki-Moon; the President of the European Court, Sir Nicholas Bratza; the Secretary General of the Council of Europe, Thorbjorn Jagland; the 2011 winner of the Nobel Peace Prize, Tawakkol Karman (Yemen); the winner of the 2011 Sakharov Prize, Asmaa Mahfouz (Egypt) and several leaders of the "Arab Spring" also took part in and spoke at this global meeting.

## Visit of the President of the Inter-American Court of Human Rights to the European Court of Human Rights, Strasbourg, France

On October 5, 2012, the President of the Inter-American Court, Diego García-Sayán, visited the European Court where he met with its outgoing President, Sir Nicolas Bratza and with its incoming President, Judge Dean Spielmann, in order to follow up on the discussions during the meeting held in San José, Costa Rica. Among other matters, it was agreed that the European Court's expert on information systems would visit the Inter-American Court in November in order to provide advice in this regard and to analyze the complementarity between the information systems of the two courts. In addition, steps were taken to initiate an exchange of personnel between the two Secretariats.

## Judges from the Constitutional Court of the Dominican Republic visit the Inter-American Court of Human Rights

On October 25, 2011 the judges of the Court received a visit from a delegation of judges from the Constitutional Court of the Dominican Republic, composed of its President, Milton Ray Guevara, and the Judges Víctor Gómez Bergés and Víctor Joaquín Castellanos Pizano, as well as the Court's Secretary, Julio José Rojas Báez. They were accompanied by the Executive Vice-president of the Institutionality and Justice Foundation (FINJUS), Servio Tulio Castaños Guzmán. During the meeting they shared experiences and challenges of both courts. Additionally, they agreed to sign a cooperation agreement between both parties.

## Summit of Presidents of Constitutional and Regional Supreme Courts, Mexico D.F., Mexico

On the 8,9 and 10 of November, 2012, the Summit of Presidents of Constitutional and Regional Supreme Courts took place organized by the Mexican Supreme Court of Justice. Presidents of the Constitutional Supreme Courts of different countries of the world, as well as of Regional Supreme Courts took part in the summit. The Inter-American Court was represented by its President Diego García-Sayán. The event was also attended by the Vice President of the International Court of Justice, the President of the African Court on Human and Peoples' Rights, and a member of the European Court of Human Rights, among others. The issues analyzed included: the domestic judge and the international protection of human rights; the dialogue between international courts and domestic jurisdictions; access to justice and transparency as factors of national and international legitimation; economic, social and cultural rights and groups in vulnerable situations, and human rights indicators: a proposal concerning a fair trial, etc.

## XIX Annual Meeting of Presidents and Judges of Latin American Constitutional Courts and Chambers, Viña del Mar, Chile

From November 13 to 16, 2012, the XIX Meeting of Presidents and Judges of Latin American Constitutional Courts and Chambers took place in Viña del Mar, Chile. On this occasion, the President of the Inter-American Court delivered an address on the jurisprudential dialogue between the domestic courts and the Inter-American Court. In addition, the meeting focused on issues such as: the diffuse control of conformity with Convention and the Constitution compared to the concentrated control; due constitutional procedure; the evolution and the constitutional protection of the rights of ethnic groups in Latin America; economic, social, cultural and environmental rights as pillars of sustainable democracy and the rule of law; relations between the constitutional courts and chambers and national and international organs.

## Presentation of the President of the Inter-American Court of Human Rights to the Permanent Council of the Organization of American States, Washington D.C., United States

On December 11, 2012, the President of the Inter-American Court, Diego García-Sayán, delivered a presentation to the Permanent Council on the short, medium and longterm financial needs of the Court. Furthermore, he indicated the importance of the Court's financing coming from the Regular Fund of the OAS and not from external voluntary contributions.

## X: Agreements, Internships and Relations with other organizations

### Inter-institutional cooperation agreements

During 2012, the Inter-American Court of Human Rights signed cooperation agreements with 12 institutions: the Judiciary of the Republic of Costa Rica; the Law School of the Universidad Diego Portales (Chile); the International Jurisprudence Clinic of the Universidad de Huelva; the Universidad Vizcaya de las Américas (Mexico); the Association of Private Universities of Central America and Panama (AUPRICA); the Universidad Nacional de La Pampa (Argentina); the Universidad Católica Andrés Bello (Venezuela); the Fundación Museo de la Memoria y los Derechos Humanos (Chile); the Pontificia Universidad Católica del Perú; the University of Oklahoma; the Human Rights Institute of the Universitat de Valencia; the Addendum to the Framework Cooperation Agreement between the Facultad Libre de Derecho of Monterrey and the Inter-American Court, the “Valentina Rosendo and Inés Fernández” educational grant, and the Constitutional Court of the Dominican Republic.

The purpose of these agreements is to establish bases for collaboration in order to conduct joint activities with these institutions in the area of human rights research, teaching, dissemination and extension work.

### Internships and professional visits

In 2012, the Court received at its seat 57 interns and visiting professionals from the following 17 countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, England, France, Guatemala, Italy, Mexico, Panama, Peru, Scotland and the United States; In their own countries they are State officials, judges, defenders, prosecutors, university professors and students. The following website can be consulted for further information on the Court’s Internship and Visiting Professionals Program: <http://www.corteidh.or.cr/pasantias.cfm>

## XI. Training and dissemination

During 2012, the Court organized a series of human rights training and dissemination activities in order to expand the understanding of the Court's functions and the inter-American system for the protection of human rights, through the participation and training of civil society organizations and individuals, academics and civil servants. These activities are described below:

### Second edition of the International Specialization Course on Jurisdiction, Human Rights and Democracy: the Transnational Discussion on Justice, Lima, Peru

From February 1 to March 8, 2012, the Inter-American Court together with the Pontificia Universidad Católica del Perú and the Academia de la Magistratura (AMAG), offered a second edition of the International Specialized Course on Human Rights and Democracy: the Transnational Discussions on Justice, for judges and prosecutors from the Peruvian Judiciary. The topics discussed included: the dynamic protection of rights at the international level; the universal and inter-American systems for the protection of human rights; the relationship and impact of judicial guarantees on democracy in Latin America, and the development of the content of the fundamental rights by the Inter-American Court.

### Training Program on the inter-American system for Costa Rican Official Public Defenders, San José, Costa Rica

On March 7, 14, 21 and 28, 2012, the Inter-American Court offered the training program on the inter-American system for Costa Rican official public defenders. Its purpose was to enhance the technical and juridical capabilities of public defenders in this country, and also to make a substantive contribution to public defense policies and strategies in order to reinforce the exercise of human rights, especially in the sphere of inter-American litigation. To this end, the program focused on the study of the inter-American human rights system and comprised 12 one and a half hour thematic modules offered over four days. The teaching staff was composed of officials from the Inter-American Court of Human Rights. Topics included: the organs of the inter-American human rights system; the State's international responsibility for human rights violations; the right to life; the rights of the indigenous communities; freedom of expression; due process; women's rights; the right to personal integrity; economic, social and cultural rights, the right to personal liberty, and reparations.

## Seminars organized by the Inter-American Court during its 45th Special Session, Guayaquil, Ecuador

On April 24, 2012, the Inter-American Court offered a seminar entitled "The case law of the Inter-American Court of Human Rights: current issues." The seminar was held at the Universidad Católica Santiago de Guayaquil. The following topics were examined during the seminar: (a) control of conformity with the Convention; (b) right to personal integrity, and (c) rights of indigenous peoples in the case law of the Inter-American Court. More than 700 people took part in the seminar.

## Itinerant workshops "The impact of the constitutional reforms of amparo and human rights on jurisdictional work: discussion and analysis sessions, Mexico, D.F, Mexico

On May 25, 2012, the said workshops were held in Mexico City, organized by the Supreme Court of Justice of the Nation, the Federal Council of the Judiciary, the Ministry of Foreign Affairs (all of Mexico), and the Inter-American Court of Human Rights. The topics discussed included enforced disappearance of persons and military jurisdiction.

## Forum on Current Issues: Victims and the Law, Bogotá, Colombia

The Forum was held in Bogotá, Colombia, on May 30, 2012, organized by the Inter-American Court of Human Rights, and was offered to approximately 150 public defenders and judges of the Colombian judiciary, whose tasks are related to issues covered by work of the Inter-American Court of Human Rights. The topics covered included the Court's case law on the rights to life, to personal liberty, and to personal integrity, and the reparations it establishes, as well as the enforced disappearance of persons, extrajudicial executions, massacres, and the positive obligations of the States in order to protect human rights.

## Initial training program for candidates for the Judiciary of the "Licenciado Édgar Cervantes Villalta" Judicial Academy of Costa Rica, San José, Costa Rica

The Inter-American Court took part in the final session of this program, which was held on August 10, 17 and 24 and September 14, 2012, and included four modules on "International Human Rights Law."

## "Summer Program on Human Rights" of Santa Clara University, San José, Costa Rica

In May and June 2012, in the framework of Santa Clara University's summer program on human rights, the Court offered different courses on the following topics: reparations in the



inter-American system; freedom of thought and expression; right to life; women's rights; introduction to the inter-American system, and proscription of enforced disappearance in the Americas.

### Training course for inter-American defenders: "Advanced study of international human rights standards," San José, Costa Rica

From August 27 to 31, 2012, a training course was held for inter-American public defenders. This training program was born of an agreement between the Inter-American Court of Human Rights and the Human Rights Center of the Universidad de Chile (CDH), with the support of the Inter-American Association of Public Defenders. The course was directed exclusively at public defenders who, under the previously described agreement, have been appointed as Inter-American Defenders. The purpose of the training sessions was to fulfill the training needs of those who will assume the legal representation of victims who have recourse to the inter-American system and do not have the means to pay for their defense.

The course was offered in two stages: the first by distance learning, using an Internet platform that had been especially designed for this purpose, and the second, in person, where in addition to lectures and discussions, the main objective was that participants could attend the Court's regular sessions and, thus, familiarize themselves with the litigation proceedings before this international court.

## List of annexes

ANNEX 1. Order of the Inter-American Court of Human Rights of June 26, 2012. Provisional measures with regard to Peru. Matter of Wong Ho Wing.

[http://www.corteidh.or.cr/docs/medidas/wong\\_se\\_08\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/wong_se_08_ing.pdf)

ANNEX 2. Order of the President of the Inter-American Court of Human Rights of December 6, 2012. Provisional measures with regard to Peru. Matter of Wong Ho Wing.

[http://www.corteidh.or.cr/docs/medidas/wong\\_se\\_09.pdf](http://www.corteidh.or.cr/docs/medidas/wong_se_09.pdf)

ANNEX 3. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of Certain Venezuelan Penitentiary Centers.

[http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_02\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_02_ing.pdf)

ANNEX 4. Order of the President of the Inter-American Court of Human Rights of August 7, 2012. Provisional measures with regard to Venezuela. Matter of Certain Venezuelan Penitentiary Centers.

[http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_03\\_ing4.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_03_ing4.pdf)

ANNEX 5. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Andean Region Prison.

[http://www.corteidh.or.cr/docs/medidas/andina\\_se\\_01\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/andina_se_01_ing.pdf)

ANNEX 6. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Capital Detention Center El Rodeo I and El Rodeo II.

[http://www.corteidh.or.cr/docs/medidas/rodeo\\_se\\_04\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/rodeo_se_04_ing.pdf)

ANNEX 7. Order of the Inter-American Court of Human Rights of November 21, 2012. Provisional measures with regard to Argentina. Matter of Millacura Llaipén *et al.*

[http://www.corteidh.or.cr/docs/medidas/millacura\\_se\\_05.pdf](http://www.corteidh.or.cr/docs/medidas/millacura_se_05.pdf)

ANNEX 8. Inter-American Court of Human Rights. Case of Atala Riffo and daughters v. Chile. Judgment of February 24, 2012. (Merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_239\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_239_ing.pdf)

ANNEX 9. Inter-American Court of Human Rights. Case of González Medina and family members v. Dominican Republic. Judgment of February 27, 2012. (Preliminary objections, merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_240\\_ing1.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_240_ing1.pdf)

ANNEX 10. Order of the Inter-American Court of Human Rights of February 27, 2012. Provisional measures with regard to Colombia. Matter of the Jiguamiandó and the Curbaradó Communities.

[http://www.corteidh.or.cr/docs/medidas/jiguamiando\\_se\\_12.pdf](http://www.corteidh.or.cr/docs/medidas/jiguamiando_se_12.pdf)

ANNEX 11. Order of the Inter-American Court of Human Rights of February 20, 2012. Provisional measures with regard to Mexico. Matter of Fernández Ortega *et al.*

[http://www.corteidh.or.cr/docs/medidas/fernandez\\_se\\_06\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/fernandez_se_06_ing.pdf)

ANNEX 12. Order of the Inter-American Court of Human Rights of February 29, 2012. Provisional measures with regard to Dominican Republic. Matter of Haitians and Dominicans of Haitian origin in the Dominican Republic.

[http://www.corteidh.or.cr/docs/medidas/haitianos\\_se\\_09\\_ing1.pdf](http://www.corteidh.or.cr/docs/medidas/haitianos_se_09_ing1.pdf)

ANNEX 13. Order of the Inter-American Court of Human Rights of February 29, 2012. Provisional measures with regard to Peru. Case of de la Cruz Flores.

[http://www.corteidh.or.cr/docs/medidas/delacruz\\_se\\_04\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/delacruz_se_04_ing.pdf)

ANNEX 14. Order of the Inter-American Court of Human Rights of March 1, 2012. Provisional measures with regard to Mexico. Matter of Martínez Martínez *et al.*

[http://www.corteidh.or.cr/docs/medidas/martinez\\_se\\_01\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/martinez_se_01_ing.pdf)

ANNEX 15. Order of the Inter-American Court of Human Rights of February 27, 2012. Case of Caballero Delgado and Santana *v.* Colombia. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/caballero\\_27\\_02\\_12%20ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/caballero_27_02_12%20ing.pdf)

ANNEX 16. Order of the Inter-American Court of Human Rights of February 27, 2012. Case of Kawas Fernández *v.* Honduras. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/Kawas\\_27\\_02\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/Kawas_27_02_12_ing.pdf)

ANNEX 17. Order of the Inter-American Court of Human Rights of February 27, 2012. Case of Vera Vera *et al.* *v.* Ecuador. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/vera\\_27\\_02\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/vera_27_02_12_ing.pdf)

ANNEX 18. Order of the Inter-American Court of Human Rights of February 20, 2012. Case of Juan Humberto Sánchez *v.* Honduras. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/sanchez\\_20\\_02\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/sanchez_20_02_12_ing.pdf)

ANNEX 19. Order of the Inter-American Court of Human Rights of February 20, 2012. Case of Garibaldi *v.* Brazil. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/garibaldi\\_20\\_02\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/garibaldi_20_02_12_ing.pdf)

ANNEX 20. Order of the Inter-American Court of Human Rights of February 20, 2012. Case of El Amparo *v.* Venezuela. Monitoring compliance with judgment.  
[http://www.corteidh.or.cr/docs/supervisiones/amparo\\_20\\_02\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/amparo_20_02_12_ing.pdf)

ANNEX 21. Inter-American Court of Human Rights. Case of Grande *v.* Argentina. Order of February 22, 2012. (Request for interpretation of the judgment on preliminary objections and merits).  
[http://www.corteidh.or.cr/docs/asuntos/grande\\_22\\_02\\_12.pdf](http://www.corteidh.or.cr/docs/asuntos/grande_22_02_12.pdf)

ANNEX 22. Order of the Inter-American Court of Human Rights of February 29, 2012. Case of Pacheco Teruel *et al.* *v.* Honduras.  
[http://www.corteidh.or.cr/docs/asuntos/pacheco\\_29\\_02\\_12.pdf](http://www.corteidh.or.cr/docs/asuntos/pacheco_29_02_12.pdf)

ANNEX 23. Inter-American Court of Human Rights. Case of Fornerón and daughter *v.* Argentina. Judgment of April 27 2012. (Merits, reparations and costs).  
[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_242\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_242_ing.pdf)

ANNEX 24. Inter-American Court of Human Rights. Case of Pacheco Teruel *et al.* *v.* Honduras. Judgment of April 27 2012. (Merits, reparations and costs).  
[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_241\\_ing1.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_241_ing1.pdf)

ANNEX 25. Order of the Inter-American Court of Human Rights of April 26, 2012. Provisional measures with regard to Brazil. Matter of the Socio-educational Internment Facility.  
[http://www.corteidh.or.cr/docs/medidas/socioeducativa\\_se\\_04\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_04_ing.pdf)

ANNEX 26. Order of the Inter-American Court of Human Rights of April 27 2012. Provisional measures with regard to Paraguay. Matter of L.M.  
[http://www.corteidh.or.cr/docs/medidas/socioeducativa\\_se\\_04\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_04_ing.pdf)

ANNEX 27. Order of the Inter-American Court of Human Rights of April 27 2012. Provisional measures with regard to Peru. Matter of Wong Ho Wing.  
[http://www.corteidh.or.cr/docs/medidas/wong\\_se\\_07\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/wong_se_07_ing.pdf)

ANNEX 28. Inter-American Court of Human Rights. Case of Barbani Duarte *et al.* *v.* Uruguay. Judgment of June 26, 2012. (Request for interpretation of the Judgment of Merits, reparations and costs).  
[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_243\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_243_ing.pdf)

ANNEX 29. Inter-American Court of Human Rights. Case of Díaz Peña v. Venezuela. Judgment of June 26, 2012. (Preliminary objection, Merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_244\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_244_ing.pdf)

ANNEX 30. Inter-American Court of Human Rights. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador. Judgment of June 27, 2012. (Merits and reparations).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_245\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf)

ANNEX 31. Order of the Inter-American Court of Human Rights of June 26, 2012. Provisional measures with regard to Colombia. Case of 19 Tradesmen.

[http://www.corteidh.or.cr/docs/medidas/comerciantes\\_se\\_08\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/comerciantes_se_08_ing.pdf)

ANNEX 32. Order of the Inter-American Court of Human Rights of June 28, 2012. Provisional measures with regard to Honduras. Matter of Gladys Lanza Ochoa.

[http://www.corteidh.or.cr/docs/medidas/lanza\\_se\\_03\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/lanza_se_03_ing.pdf)

ANNEX 33. Order of the Inter-American Court of Human Rights of June 21, 2012. Provisional measures with regard to Dominican Republic. Case of González Medina and family members.

[http://www.corteidh.or.cr/docs/medidas/gonzalez\\_se\\_02\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/gonzalez_se_02_ing.pdf)

ANNEX 34. Order of the Inter-American Court of Human Rights of June 26, 2012. Provisional measures with regard to Peru. Matter of Wong Ho Wing.

[http://www.corteidh.or.cr/docs/medidas/wong\\_se\\_08\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/wong_se_08_ing.pdf)

ANNEX 35. Order of the Inter-American Court of Human Rights of June 20, 2012. Case of Lori Berenson Mejía v. Peru. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/lori\\_20\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/lori_20_06_12_ing.pdf)

ANNEX 36. Order of the Inter-American Court of Human Rights of June 19, 2012. Case of Escher *et al.* v. Brazil. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/escher\\_19\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/escher_19_06_12_ing.pdf)

ANNEX 37. Order of the Inter-American Court of Human Rights of June 19, 2012. Case of Heliodoro Portugal v. Panama. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/portugal\\_19\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/portugal_19_06_12_ing.pdf)

ANNEX 38. Order of the Inter-American Court of Human Rights of June 20, 2012. Case of Bayarri v. Argentina. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/bayarri\\_20\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/bayarri_20_06_12_ing.pdf)

ANNEX 39. Order of the Inter-American Court of Human Rights June 26, 2012. Case of Mejía Idrovo v. Ecuador. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/idrovo\\_26\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/idrovo_26_06_12_ing.pdf)

ANNEX 40. Order of the President of the Inter-American Court of Human Rights of June 26, 2012. Case of 19 Tradesmen v. Colombia. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/comerciantes\\_26\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/comerciantes_26_06_12_ing.pdf)

ANNEX 41. Order of the Inter-American Court of Human Rights of June 28, 2012. Case of Radilla Pacheco v. Mexico. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/radillapacheco\\_28\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/radillapacheco_28_06_12_ing.pdf)

ANNEX 42. Order of the Inter-American Court of Human Rights of June 28, 2012. Case of Baena Ricardo *et al.* v. Panama. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/baena\\_28\\_06\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/baena_28_06_12_ing.pdf)

ANNEX 43. Inter-American Court of Human Rights. Case of Furlan and family members v. Argentina. Judgment of August 31, 2012. (Preliminary objections, merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_246\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_246_ing.pdf)

ANNEX 44. Inter-American Court of Human Rights. Case of Palma Mendoza *et al.* v. Ecuador. Judgment of September 3, 2012. (Preliminary objection and merits).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_247\\_ing.doc.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_247_ing.doc.pdf)

ANNEX 45. Inter-American Court of Human Rights. Case of Vélez Restrepo and family members v. Colombia. Judgment of September 3, 2012. (Preliminary objection, Merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_248\\_ing%20.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_248_ing%20.pdf)

ANNEX 46. Inter-American Court of Human Rights. Case of Uzcátegui *et al.* v. Venezuela. Judgment of September 3, 2012. (Merits and reparations).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_249\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_249_ing.pdf)

ANNEX 47. Inter-American Court of Human Rights. Case of the Río Negro Massacre v. Guatemala. Judgment of September 4, 2012. (Preliminary objection, merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_250\\_ing%20.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_250_ing%20.pdf)

ANNEX 48. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Andean Region Prison.

[http://www.corteidh.or.cr/docs/medidas/andina\\_se\\_01\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/andina_se_01_ing.pdf)

ANNEX 49. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Central Occidental Region Penitentiary Center: Urbana Prison. [http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_02\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_02_ing.pdf)

ANNEX 50. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Capital Region Penitentiary Center Yare I and Yare II. [http://www.corteidh.or.cr/docs/medidas/penitenciarioregion\\_se\\_05\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/penitenciarioregion_se_05_ing.pdf)

ANNEX 51. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Capital Region Penitentiary Center Yare I and Yare II. [http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_02\\_ing1.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_02_ing1.pdf)

ANNEX 52. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Capital Detention Center El Rodeo I and El Rodeo II. [http://www.corteidh.or.cr/docs/medidas/rodeo\\_se\\_04\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/rodeo_se_04_ing.pdf)

ANNEX 53. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Capital Detention Center El Rodeo I and El Rodeo II. [http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_02\\_ing2.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_02_ing2.pdf)

ANNEX 54. Order of the Inter-American Court of Human Rights of September 6, 2012. Provisional measures with regard to Venezuela. Matter of the Monagas Detention Center ("La Pica"). [http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios\\_se\\_02\\_ing3.pdf](http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_02_ing3.pdf)

ANNEX 55. Order of the Inter-American Court of Human Rights of September 7, 2012. Provisional measures with regard to Dominican Republic. Matter of Haitians and Dominicans of Haitian origin in the Dominican Republic. [http://www.corteidh.or.cr/docs/medidas/haitianos\\_se\\_10\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/haitianos_se_10_ing.pdf)

ANNEX 56. Order of the Inter-American Court of Human Rights of September 4, 2012. Provisional measures with regard to Guatemala. Case of Raxcacó Reyes *et al.* [http://www.corteidh.or.cr/docs/medidas/Raxcaco\\_se\\_08\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/Raxcaco_se_08_ing.pdf)

ANNEX 57. Order of the Inter-American Court of Human Rights of September 4, 2012. Case of Mejía Idrovo v. Ecuador. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/mejia\\_04\\_09\\_12.pdf](http://www.corteidh.or.cr/docs/supervisiones/mejia_04_09_12.pdf)

ANNEX 58. Order of the Inter-American Court of Human Rights of September 7, 2012. Case of Barrios Altos v. Peru. Monitoring compliance with judgment.

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ANNEX 59. Order of the Inter-American Court of Human Rights of September 4, 2012. Case of the Las Dos Erres Massacre v. Guatemala. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/doserres\\_04\\_09\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/doserres_04_09_12_ing.pdf)

ANNEX 60. Order of the Inter-American Court of Human Rights of September 4, 2012. Case of Vargas Areco v. Paraguay. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/vargas\\_04\\_09\\_12\\_ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/vargas_04_09_12_ing.pdf)

ANNEX 61. Inter-American Court of Human Rights. Case of Nadege Dorzema *et al.* v. Dominican Republic. Judgment of October 24, 2012. Merits, reparations and costs.

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ANNEX 62. Inter-American Court of Human Rights. Case of the Massacres of El Mozote and nearby places v. El Salvador. Judgment of October 25, 2012. Merits, reparations and costs.

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_252\\_ing%20.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_252_ing%20.pdf)

ANNEX 63. Order of the Inter-American Court of Human Rights of October 23, 2012. Provisional measures with regard to Colombia. Case of Gutiérrez Soler.

[http://www.corteidh.or.cr/docs/medidas/gutierrez\\_se\\_05\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/gutierrez_se_05_ing.pdf)

ANNEX 64. Order of the Inter-American Court of Human Rights of October 25, 2012. Provisional measures with regard to Peru. Case of De La Cruz Flores.

[http://www.corteidh.or.cr/docs/medidas/delacruz\\_se\\_05.pdf](http://www.corteidh.or.cr/docs/medidas/delacruz_se_05.pdf)

ANNEX 65. Order of the Inter-American Court of Human Rights of October 24, 2012. Provisional measures with regard to Honduras. Matter of José Luis Galdámez Álvarez *et al.*

[http://www.corteidh.or.cr/docs/medidas/galdamez\\_se\\_031.pdf](http://www.corteidh.or.cr/docs/medidas/galdamez_se_031.pdf)

ANNEX 66. Order of the Inter-American Court of Human Rights of October 25, 2012. Provisional measures with regard to Guatemala. Case of Carpio Nicolle *et al.*

[http://www.corteidh.or.cr/docs/medidas/carpio\\_se\\_15\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/carpio_se_15_ing.pdf)

ANNEX 67. Order of the Inter-American Court of Human Rights of October 23, 2012. Case of Vera Vera *et al.* v. Ecuador. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/vera\\_23\\_10\\_12%20ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/vera_23_10_12%20ing.pdf)

ANNEX 68. Order of the Inter-American Court of Human Rights of October 23, 2012. Case of Kawas Fernández v. Honduras. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/Kawas\\_23\\_10\\_12%20ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/Kawas_23_10_12%20ing.pdf)

ANNEX 69. Order of the Inter-American Court of Human Rights of October 24, 2012. Case of Salvador Chiriboga v. Ecuador. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/chiriboga\\_24\\_10\\_12%20ing.pdf](http://www.corteidh.or.cr/docs/supervisiones/chiriboga_24_10_12%20ing.pdf)

ANNEX 70. Inter-American Court of Human Rights. Case of Gudiel Álvarez ("Diario Militar") v. Guatemala. Judgment of November 20, 2012. (Merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_253\\_esp1.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_253_esp1.pdf)

ANNEX 71. Inter-American Court of Human Rights. Case of Atala Riffo and daughters v. Chile. Judgment of November 21, 2012. (Request for interpretation of the judgment on merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_254\\_ing1.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_254_ing1.pdf)

ANNEX 72. Inter-American Court of Human Rights. Case of Mohamed v. Argentina. Judgment of November 23, 2012. (Preliminary objection, merits, reparations and costs).

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ANNEX 73. Inter-American Court of Human Rights. Case of Castillo González *et al.* v. Venezuela. Judgment of November 27, 2012. (Merits).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_256\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_256_ing.pdf)

ANNEX 74. Inter-American Court of Human Rights. Case of Artavia Murillo *et al.* (*In vitro* fertilization) v. Costa Rica. Judgment of November 28, 2012. (Preliminary objections, merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_257\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf)

ANNEX 75. Inter-American Court of Human Rights. Case of García and family members v. Guatemala. Judgment of November 29, 2012. (Merits, reparations and costs).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_258\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_258_esp.pdf)

ANNEX 76. Inter-American Court of Human Rights. Case of the Santo Domingo Massacre v. Colombia. Judgment of November 30, 2012. (Preliminary objections, merits and reparations).

[http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_259\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_259_esp.pdf)

ANNEX 77. Order of the Inter-American Court of Human Rights of November 21, 2012. Provisional measures with regard to the Argentine Republic. Matter of Millacura Llaipén *et al.*

[http://www.corteidh.or.cr/docs/medidas/millacura\\_se\\_05.pdf](http://www.corteidh.or.cr/docs/medidas/millacura_se_05.pdf)

ANNEX 78. Order of the Inter-American Court of Human Rights of November 20, 2012. Provisional measures with regard to the Federative Republic of Brazil. Matter of the Socio-educational Internment Facility.

[http://www.corteidh.or.cr/docs/medidas/socioeducativa\\_se\\_05.pdf](http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_05.pdf)

ANNEX 79. Order of the Inter-American Court of Human Rights of November 23, 2012. Provisional measures with regard to Mexico. Matter of Alvarado Reyes.

[http://www.corteidh.or.cr/docs/medidas/alvarado\\_se\\_05.pdf](http://www.corteidh.or.cr/docs/medidas/alvarado_se_05.pdf)

ANNEX 80. Order of the Inter-American Court of Human Rights of November 23, 2012. Case of Mapiripán Massacre v. Colombia. Monitoring compliance with judgment.

[http://www.corteidh.or.cr/docs/supervisiones/mapiripan\\_23\\_11\\_12.pdf](http://www.corteidh.or.cr/docs/supervisiones/mapiripan_23_11_12.pdf)

ANNEX 81. Order of the Inter-American Court of Human Rights of November 23, 2012. Apitz Barbera *et al.* Venezuela

[http://corteidh.or.cr/docs/supervisiones/aptiz\\_23\\_11\\_12.pdf](http://corteidh.or.cr/docs/supervisiones/aptiz_23_11_12.pdf)

ANNEX 82. Rules of the Inter-American Court of Human Rights for the Operation of the Victims' Legal Assistance Fund.

<http://www.corteidh.or.cr/reglamentov.cfm>

ANNEX 83. Order of the President of the Inter-American Court of Human Rights of May 8, 2012. Victims' Legal Assistance Fund. Case of Mendoza *et al.* v. Argentina.

[http://corteidh.or.cr/docs/fondo\\_victimas/mendoza\\_fv\\_12\\_eng.pdf](http://corteidh.or.cr/docs/fondo_victimas/mendoza_fv_12_eng.pdf)

ANNEX 84. Order of the President of the Inter-American Court of Human Rights of May 18, 2012. Victims' Legal Assistance Fund. Case of Norín Catrimán *et al.* v. Chile.

[http://corteidh.or.cr/docs/fondo\\_victimas/norin\\_fv\\_12\\_eng.pdf](http://corteidh.or.cr/docs/fondo_victimas/norin_fv_12_eng.pdf)

ANNEX 85. Order of the President the Inter-American Court of Human Rights of June 4, 2012. Victims' Legal Assistance Fund. Case of Mohamed v. Argentina.

[http://www.corteidh.or.cr/docs/asuntos/mohamed\\_04\\_06\\_12.pdf](http://www.corteidh.or.cr/docs/asuntos/mohamed_04_06_12.pdf)

ANNEX 86. Order of the President the Inter-American Court of Human Rights of August 28, 2012. Victims' Legal Assistance Fund. Case of Cruz Sánchez *et al.* vs. Peru.

[http://www.corteidh.or.cr/docs/fondo\\_victimas/cruz\\_fv\\_28.pdf](http://www.corteidh.or.cr/docs/fondo_victimas/cruz_fv_28.pdf)

ANNEX 87. Order of the President of the Inter-American Court of Human Rights of September 14, 2012. Victims' Legal Assistance Fund. Case of Suárez Peralta v. Ecuador.

[http://www.corteidh.or.cr/docs/fondo\\_victimas/suarez\\_fv\\_12\\_eng.pdf](http://www.corteidh.or.cr/docs/fondo_victimas/suarez_fv_12_eng.pdf)

ANNEX 88. Order of the President of the Inter-American Court of Human Rights of October 24, 2012. Victims' Legal Assistance Fund. Case of J. v. Peru.

[http://corteidh.or.cr/docs/fondo\\_victimas/j\\_fv\\_12\\_ing.pdf](http://corteidh.or.cr/docs/fondo_victimas/j_fv_12_ing.pdf)