



Annual Report 2013

Inter-American Court of Human Rights. 2014
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I. PREAMBLE

This report includes the most essential aspects of the work of the Inter-American Court of Human Rights during 2013, with regard to both its jurisdictional activities and those aimed at achieving closer relations with the institutions and people of the Americas.

The judges of the Court have placed their trust in me to head the activities of this important institution by exercising its presidency during two mandates, from January 2010 to December 2013. Accordingly, this is the last report I will present as President of the Court and, therefore, I consider it necessary to make a brief summary of my work over this period, and to share some thoughts with you.

Throughout these years, I have observed the growing demand for democracy by the peoples of our region, and their corresponding expectations, and this has led to an increase in the cases submitted to the Court, as well as to the diversification of the matters it is hearing. Thus, the Court is tackling new issues such as the principle of non-discrimination based on sexual orientation, assisted fertilization methods, and the rights of indigenous peoples and prior consultation, among many others. These have been added to issues that the Court has been hearing and deciding systematically, such as the right to life, torture, enforced disappearances, the death penalty, guarantees of due process and judicial protection, consular protection, freedom of thought and expression and their protection in harmony with the right to honor, access to information, rights of the child and the family, women's rights, and political rights.

This whole body of case law is now the property of the Americas and is helping to make a gradual change in the map of the relations between society and the State. This has resulted in one of the most significant and interesting phenomena in the Court's case law, which is that, today, this transcends each specific case. Today, this case law is acting as a beacon to guide the development of public policies and, in particular, as a living instrument for agents of justice, permitting a fluid dialogue between national and international law.

Owing to the "control of conformity with the Convention" that tends to predominate nowadays, the work of domestic judges is permeated by the judgments of the Inter-American Court. There are no longer only "seven inter-American judges"; there are thousands and thousands of inter-American judges operating in the region and this is extremely positive. In addition, we can observe with optimism how the lessons of the Court's case law have taken hold in the university lecture halls of our continent and beyond. We can also observe the way in which the continent's civil society has adopted inter-American justice when the time comes to protect its rights. Reciprocally, important case law of Latin America's high courts nourishes the development of the Inter-American Court's case law by way of a productive jurisprudential dialogue.

Despite their increase in number, the Court has made constant and successful efforts to decide cases within a reasonable time. I have always been convinced that deciding cases within a reasonable time is also applicable in the international jurisdiction. In this regard, in the four years of my mandate, the average time for deciding a case has been around 19.5 months, and this has meant that the Court does not have a backlog as regards deciding the matters that are submitted to its consideration.

Holding public hearings outside the seat of the Court is, perhaps, one of its most important activities. It allows different sectors of society and its institutions to observe the work of the Court and its relevance close up. In 2013, the Court held sessions in Medellín, Colombia, Mexico City, Mexico, and Brasilia, Brazil; thus ending the period over which I have exercised the presidency of the Court, during which public hearings outside its seat were held on eight occasions. In addition to those indicated above, it is worth mentioning the hearings held in Barbados, which was the first time that the Court had met in a country of the English-speaking Caribbean, Ecuador (on two occasions), Panama and Peru.

Over the last four years, important steps have also been taken to facilitate access to inter-American justice, especially to the most needy. When bringing the Court's new Rules of Procedure into force in 2010, an important step was implementation of the inter-American defender and the Victims' Legal Assistance Fund. Although there was some skepticism as to whether these mechanisms would function in the practice, after four years, I can say that they are a real and effective reality. They are allowing individuals and groups of individuals who lack the financial resources to litigate before the Court or who do not have a lawyer to represent them before it to assert their rights and not to be excluded from the inter-American jurisdiction for financial reasons. The defense of victims by the inter-American defender, and the implementation of the Victims' Legal Assistance Fund, have meant that the expense of participating in proceedings before the Court has been covered for dozens of victims, witnesses, expert witnesses and lawyers.

Another sphere in which it was urgent to improve access to the Court was the provision of a more user-friendly tool to access its case law. In this regard, one of the most important tools developed to help disseminate this case law was the creation and launch of the human rights law search engine. This search engine is the result of a joint initiative between the Inter-American Court and the Supreme Court of Justice of Mexico, in order to make the developments in the case law of the Inter-American Court available systematically to numerous and diverse users, especially agents of justice. This initiative has democratized access to inter-American case law, facilitating its use by the general public and, especially, the domestic courts.

In 2013, I was honored to sign an agreement with the Brazilian Government to translate into Portuguese many of the Court's judgments that, owing to its limited budget, were only available in Spanish or English, which made it difficult for Brazilian society to access them. This will allow, for the first time, the most populous country of the Americas over which the Court has jurisdiction to access the Court's case law and read it in its own language, thus improving the knowledge and application of this case law.

During my four-year mandate, the Court's budget has increased significantly and this has required prolonged and intense negotiations, with regard to both the resources from the Regular Fund of the OAS and those from international cooperation or voluntary contributions. Particular attention should be drawn to the fact that, at the end of 2013, the resources from the OAS Regular Fund represented a 49.45% increase over those allocated prior to this four-year period that is ending. This is particularly relevant when it is taken into account that, over this same lapse, the general budget of the OAS has suffered successive cuts.

Nevertheless, as I have indicated on many occasions and in many forums, the resulting budgetary resources continue to be insufficient. As I have stated in numerous and reiterated reports, owing to its importance and impact in the region, the work of the Court needs to be wholly financed by the OAS Regular Fund and only exceptionally by external cooperation. I also believe that the time has come to propose that the inter-American judges be elected on a full-time basis, and to implement this objective. The importance of their work warrants it.

In short, inter-American justice is no longer an intangible element on the periphery of the everyday life of our peoples, but a living part of their daily life, guiding the course of the Americas from the perspective of justice, respect for human rights, and the consolidation of our democracies.

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

II. THE COURT: STRUCTURE AND FUNCTIONS

2.1 Establishment

The Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) is a treaty-based organ that was formally established on September 3, 1979, by the entry into force of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) on July 18, 1978. The Statute of the Inter-American Court of Human Rights (hereinafter, “the Statute”) establishes that it is an “autonomous judicial institution,” whose purpose is to interpret and apply the American Convention.



2.2 Organization and composition

As stipulated in Articles 3 and 4 of its Statute, 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 (hereinafter “OAS”).¹

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 in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights. In addition, they must possess the qualifications required for the exercise of the highest judicial functions, in accordance with the law of the State of which they are nationals or of the State that proposes them as candidates.²



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,”³ and, to this end, they will not be replaced by the judges newly-elected by the OAS General Assembly. The President and the Vice President are elected by the judges themselves for a two-year period and can be re-elected.⁴ In 2013, the composition of the Court was as follows (in order of precedence⁵):

¹ American Convention on Human Rights, Article 52.

² American Convention on Human Rights, Article 52. *Cf.* Statute of the Inter-American Court of Human Rights, Article 4.

³ American Convention on Human Rights, Article 54.3. *Cf.* Statute of the Inter-American Court of Human Rights, Article 5.

⁴ Statute of the Inter-American Court of Human Rights, Article 12.

⁵ According to paragraphs 1 and 2 of Article 13 of the Statute of the Inter-American Court of Human Rights, “[e]lected judges shall take precedence after the President and the Vice President according to their seniority in office,” and “[j]udges having the same seniority in office shall take precedence according to age.”

- Diego García-Sayán (Peru), President
- Manuel E. Ventura Robles (Costa Rica), Vice President
- Alberto Pérez Pérez (Uruguay)
- Eduardo Vio Grossi (Chile)
- Roberto de Figueiredo Caldas (Brazil)
- Humberto Antonio Sierra Porto (Colombia)
- Eduardo Ferrer Mac-Gregor Poisot (Mexico)

Judges Roberto de Figueiredo Caldas, Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor Poisot assumed office on January 1, 2013.

The judges are assisted in the exercise of their functions by the Court's Secretariat. The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During the one hundred and first regular session held in San José (Costa Rica), the Court elected its new board for the period 2014-2015, and Judge Humberto Antonio Sierra Porto was elected President of the Court and Judge Roberto de Figueiredo Caldas, Vice President. The Court also re-elected Pablo Saavedra Alessandri as Secretary for the period 2014-2018.

2.3 States Parties

Of the 35 States that are members of the OAS, the following 20 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 and Uruguay.

On September 10, 2012, Venezuela presented an instrument denouncing the American Convention on Human Rights before the Secretary General of the Organization of American States (OAS). According to Article 78(1) of the American Convention on Human Rights, "[t]he States Parties may denounce this Convention [...] by means of notice given one year in advance"; thus, the denunciation took effect on September 10, 2013. It should be noted that, as established in paragraph 2 of

Article 78, "[s]uch a denunciation shall not have the effect of releasing the State Party concerned from the obligations contain in the American Convention with respect to any act that may constitute a violation of those obligations and that has occurred prior to the effective date of the denunciation."



2.4 Functions

According to the American Convention, the Court exercises (a) contentious functions; (b) advisory functions, and (c) is empowered to order provisional measures.

A) 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 redress the consequences of the violation of such rights.

There are two stages to the procedure followed by the Court to decide the contentious cases submitted to its jurisdiction: (i) the contentious stage, and (ii) the stage of monitoring compliance with the judgment.

a.1) Contentious stage

This stage includes four phases:

- a. The phase of the presentation of the Commission's brief submitting the case; the brief with pleadings, motions and evidence of the presumed victims, and the brief in answer to the two previous briefs of the defendant State; the briefs with observations on the preliminary objections filed by the State, when applicable; the brief with the final list of deponents, and the order convening a hearing;
- b. The oral phase or public hearing;
- c. The phase of the final written arguments of the parties and observations of the Commission;
- d. The phase of the deliberation and delivery of judgments.

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The contentious stage begins with the submission of the case to the Court by the Commission. 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 brief presenting the case include, *inter alia*:⁶

1. A copy of the report issued by the Commission under Article 50 of the Convention;
2. A copy of the complete case file before the Commission, including any communication subsequent to the report under Article 50 of the Convention;
3. The evidence offered, indicating the facts and arguments to which this refers, and
4. The reasons that led the Commission to present the case.

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 this is so, the Secretariat notifies the case to the defendant State and to the presumed victim, his or her representatives or the inter-American defender, if appropriate.⁷

Following notification of the case, the presumed victim or his or her representatives have two months as of the date of notification of the presentation of the case and its annexes to submit their autonomous brief with pleadings, motions and evidence. This brief must include, *inter alia*:⁸

1. A description of the facts, within the factual framework established by the Commission;
2. The evidence offered, in proper order, indicating the facts and arguments to which it refers, and
3. The claims, including those relating to reparations and costs.

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 presented by the Commission and by the representatives of the presumed victims, indicating, *inter alia*:⁹

1. Whether it accepts the facts and the claims or whether it contests them;
2. The evidence offered, in proper order, indicating the facts and arguments to which it refers, and
3. 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 representatives of the presumed victim. If the State files preliminary objections, the Commission and the presumed victims or their representatives can submit their respective observations within 30 days of receiving notice of them.¹⁰ If the State makes a partial or total acknowledgement of responsibility, the Commission

⁶ Rules of Procedure of the Inter-American Court of Human Rights, Article 35.

⁷ Rules of Procedure of the Inter-American Court of Human Rights, Article 38.

⁸ Rules of Procedure of the Inter-American Court of Human Rights, Article 40.

⁹ *Ibid.*, Article 41.

¹⁰ *Ibid.*, Article 42.4.

and the representatives of the presumed victims 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 presumed victims or their representatives, and the defendant State may ask the President to take other measures in the context of the written proceedings. If the President considers this pertinent, he will establish the time frames for presentation of the respective documents.¹¹

Once the Court has received the final lists of deponents and expert witnesses, these are forwarded to the parties so that they may present their observations and, if appropriate, their objections to the said deponents.¹² 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 victims, witnesses and expert witnesses will provide their testimony at the public hearing of the case, and which of them will testify by affidavit, as well as the purpose of the testimony of each deponent. 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.¹³

b) Oral phase or public hearing

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.¹⁴ Then, the judges of the Court hear the presumed victims, 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 the provisions of Article 52(3) of the Court's Rules of Procedure. After this, the President gives the floor to the presumed 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 reply and a rejoinder. Once the arguments have been submitted, the Commission presents its final observations and then the judges ask their concluding questions.¹⁵ This hearing usually lasts a day and a half and is transmitted online via the Court's web page.

¹¹ *Ibid.*, Article 43.

¹² *Ibid.*, Article 47.

¹³ *Ibid.*, Article 50.

¹⁴ *Ibid.*, Article 51.

¹⁵ *Ibid.*

c) Phase of final written arguments of the parties and observations of the Commission

Once the previous phase has been completed, the third stage begins during which the presumed victims or their representatives, and the defendant State present their final written arguments. The Commission presents final written observations, if it deems pertinent.¹⁶

d) Phase of deliberation and delivery of judgment

When the final written arguments of the parties have been received, the Court may request additional probative measures indicated in Article 58 of the Rules of Procedure.¹⁷ During this phase, 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 for its consideration. The judges deliberate on this draft judgment for several days during one of the sessions and, in complex cases, these deliberations may sometimes be suspended and taken up again at a future session. During these deliberations, the draft is discussed and approved until the operative paragraphs of judgment are reached; these are then voted on by the judges of the Court. In some cases, the judges submit dissenting or concurring opinions on the judgments.



The judgments handed down by the Court are final and non-appealable.¹⁸ Nevertheless, if any of the parties to the proceedings requests clarification of the meaning or scope of the judgment in question, the Court will elucidate it in an interpretative judgment. This interpretation is made at the request of any of the parties, provided the request is submitted within 90 days of notification of the judgment.¹⁹

a.2) Phase of monitoring compliance with judgments

The Inter-American Court is responsible for monitoring compliance with its judgments. The authority to monitor its judgments is inherent in the exercise of its jurisdictional powers, and the legal grounds can be found in Articles 33, 62(1), 62(3) and 65 of the Convention, as well as

¹⁶ *Ibid.*, Article 56.

¹⁷ It should be noted that, according to the provisions of Article 58 of the Rules of Procedure of the Inter-American Court of Human Rights, "at any stage of the proceedings," the Court may take the following probative measures, notwithstanding the arguments and documentation provided by the parties::

1. Obtain *ex officio* any evidence it considers useful and necessary;
2. Require the provision of any evidence or any explanation or statement that, in its opinion, may be useful;
3. 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
4. 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.

¹⁸ American Convention on Human Rights, Article 67.

¹⁹ *Ibid.*

in Article 30 of the Court's Statute. Furthermore, the procedure is regulated in Article 69 of the Court's Rules of Procedure and its purpose is to ensure that the reparations ordered by the Court in each specific case are complied with and implemented.

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 of 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 actions taken by the State to that end and, if appropriate, convene a monitoring hearing. In the context of such hearings, the Court does not merely take note of the information presented by the parties and the Commission, but also endeavors to establish collaboration between the parties suggesting options to resolve difficulties, encourages compliance with the judgment, calls attention to a lack of willingness to comply, and promotes the establishment of timetables for compliance by all those involved.

It should be noted that the Court began to hold hearings on monitoring compliance with judgments in 2007. Since then, favorable results have been achieved, with significant progress being made in fulfillment of the reparations ordered by the Court. This has also been noted by the OAS General Assembly in its 2012 resolution on "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights," in which the General Assembly recognizes "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."²⁰

B) PROVISIONAL MEASURES

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.²¹ 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 Inter-American Commission can request provisional measures at any time, even if the case has not yet been submitted to the jurisdiction of the Court, and the representatives of the alleged victims can do so, provided the measures relate to a case that the Court is examining. The Court may also issue such measures *ex officio*.

The supervision of these measures is carried out by the presentation of reports by the State, on which the beneficiaries or their representatives may make the respective observations. The Commission also presents observations on the State's reports and on the observations made by the beneficiaries.²² 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 whether it is pertinent to convene those involved to a hearing²³ during which the

²⁰ Resolution No. AG/RES.2759 (XLII-0/12).

²¹ American Convention on Human Rights, Article 63(2). *Cf.* Rules of Procedure of the Inter-American Court of Human Rights, Article 27.

²² Rules of Procedure of the Inter-American Court of Human Rights, Article 27(7).

²³ In a hearing on provisional measures, the representatives of the beneficiaries and the Inter-American Commission have the opportunity to prove, when appropriate, the continued existence of situations that led to the adoption of provisional measures.

parties describe the status of the measures adopted, or else to issue orders relating to 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 incites the parties to reach agreements in order to ensure improved compliance with the measures ordered.

C) ADVISORY FUNCTION

This function allows the Court to respond to consultations by OAS Member States or the organs of the Organization on the interpretation of the American Convention or other treaties for the protection of human rights in the States of the Americas²⁴. 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 system²⁵.

To date, the Court has issued 20 advisory opinions, which have given it the opportunity to rule on essential issues such as:

- Interpretation of the expression "other treaties" that appears in Article 64 of the American Convention,²⁶ and of the word "laws" in Article 30 of the American Convention;²⁷ interpretation of the American Declaration of the Rights and Duties of Man within the framework of Article 64 of the American Convention on Human Rights,²⁸ interpretation of Article 55 of the American Convention²⁹ and on the effect of reservations.³⁰
- Restrictions to the death penalty;³¹
- Compulsory membership in an association prescribed by law for the practice of journalism in relation to Articles 13 and 29 of the American Convention on Human Rights;³²

Meanwhile, the State must present information on the measures adopted in order to overcome these situations of extreme gravity and urgency and, if possible, prove that these circumstances no longer exist.

²⁴ American Convention on Human Rights, Article 64.1.

²⁵ American Convention on Human Rights, Article 64.2.

²⁶ "Other Treaties" subject to the Advisory Jurisdiction of the Court (Art. 64 American Convention on Human Rights). Advisory Opinion OC-1/82 of September 24, 1982. Series A No. 1.

²⁷ The Word "Laws" in Article 30 of the American Convention on Human Rights. Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6.

²⁸ Interpretation of the American Declaration on the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights. Advisory Opinion OC-10/89 of July 14, 1989. Series A No. 10.

²⁹ Article 55 of the American Convention on Human Rights. Advisory Opinion OC-20/09 of September 29, 2009. Series A No. 20.

³⁰ The effect of reservations on the Entry into Force of the American Convention on Human Rights. Advisory Opinion OC-2/82 of September 24, 1982. Series A No. 2.

³¹ Restrictions to the Death Penalty (Arts. 4(2) and 4(4) American Convention on Human Rights). Advisory Opinion OC-3/83 of September 8, 1983. Series A No. 3.

³² Compulsory Membership in an Association prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5

- Enforceability of the right to reply or correction that appears in Article 14 of the Convention;³³
- Judicial guarantees in states of emergency,³⁴ habeas corpus in emergency situations in relation to Articles 27(2), 25(1) and 7(6) of the American Convention on Human Rights;³⁵
- Exceptions to the exhaustion of domestic remedies;³⁶
- Compatibility of draft legislation with the right to appeal a judgment before a higher court,³⁷ proposed amendments to the naturalization provisions of the Constitution of Costa Rica;³⁸
- Attributes of the Inter-American Commission established in the Convention,³⁹ reports of the Inter-American Commission, and control of legality in the exercise of the Commission's attributes;⁴⁰
- International responsibility for the promulgation and enforcement of laws in violation of the Convention;⁴¹
- Reports of the Inter-American Commission on Human Rights in relation to Article 51 of the American Convention on Human Rights;⁴²
- The right to information on consular assistance within the framework of the guarantees of due process of law;⁴³
- Juridical status and human rights of the child,⁴⁴ and

³³ *Enforceability of the Right to Reply or Correction (Arts. 14(1), 1(1) and 2 American Convention on Human Rights)*. Advisory Opinion OC-7/86 of August 29, 1986. Series A No. 7.

³⁴ *Judicial Guarantees in States of Emergency (Arts. 27(2), 25 and 8 American Convention on Human Rights)*. Advisory Opinion OC-9/87 of October 6, 1987. Series A No. 9.

³⁵ *Habeas Corpus in Emergency Situations (Arts. 27(2), 25(1) and 7(6) American Convention on Human Rights)*. Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8.

³⁶ *Exceptions to the Exhaustion of Domestic Remedies (Arts. 46(1), 46(2)(a) and 46(2)(b), American Convention on Human Rights)*. Advisory Opinion OC-11/90 of August 10, 1990. Series A No. 11.

³⁷ *Compatibility of Draft Legislation with Article 8(2)(h) of the American Convention on Human Rights*. Advisory Opinion OC-12/91 of December 6, 1991. Series A No. 12.

³⁸ *Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica*. Advisory Opinion OC-4/84 of January 19, 1984. Series A No. 4.

³⁹ *Certain Attributes of the Inter-American Commission on Human Rights (Arts. 41, 42, 44, 46, 47, 50 and 51 of the American Convention on Human Rights)*. Advisory Opinion OC-13/93 of July 16, 1993. Series A No. 13.

⁴⁰ *Control of Legality in the Exercise of the Functions of the Inter-American Commission on Human Rights (Arts. 41 and 44 to 51 of the American Convention on Human Rights)*. Advisory Opinion OC-19/05 of November 28, 2005. Series A No. 19.

⁴¹ *International responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 American Convention on Human Rights)*. Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14.

⁴² *Reports of the Inter-American Commission on Human Rights (Art. 51 American Convention on Human Rights)*. Advisory Opinion OC-15/97 of November 14, 1997. Series A No. 15.

⁴³ *The Right to Information on Consular Assistance within the Framework of the Guarantees of Due Process of Law*. Advisory Opinion OC-16/99 of October 1, 1999. Series A No. 16.

⁴⁴ *Juridical Status and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17.

- Juridical status and human rights of migrants.⁴⁵

⁴⁵ *Juridical Status and Human Rights of Undocumented Migrants*. Advisory Opinion OC-18/03 of September 17, 2003. Series A No. 18.

III. THE COURT IN 2013

The work of the Court during 2013 is described below, divided into the following sections:

- 1) Sessions held in 2013
- 2) Contentious function
- 3) Provisional measures
- 4) Advisory function

Then (subheading 3.5), the most relevant advances in the Court's case law in 2013 are highlighted.

3.1 Sessions held in 2013

A) INTRODUCTION

During its sessions, the Court carries out different activities. Among the most relevant are:

- Holding hearings and adopting judgments in contentious cases
- Holding hearings and issuing orders on monitoring compliance with judgment
- Holding hearings and issuing orders on provisional measures



The Court also takes different measures in matters pending before it, as well as issues of an administrative nature. These activities include procedures characterized by the significant and dynamic participation of the parties involved in the matters and cases in question.

During 2013, the Court held four regular sessions and also three special sessions, which took place in Medellín, Mexico City, and Brasília. The matters examined by the Court during these sessions are described below.

B) SUMMARY OF THE SESSIONS

➤ **Ninety-eighth regular session**

The Court held its ninety-eighth regular session in San José, Costa Rica, from February 4 to 15, 2013. At the start of this session the three judges who were newly-elected to the Court were sworn in at a ceremony that took place in the hearings chamber. During the session, the Court held six public hearings on contentious cases⁴⁶ and three private hearings on monitoring



⁴⁶ Case of *Quintana Coello et al. v. Ecuador*, Case of *Liakat Ali Alibux v. Suriname*, Case of *Luna López v. Honduras*, Case of *Mémoli v. Argentina*, Case of *Suárez Peralta v. Ecuador*, and Case of *Marino López et al. (Operation Genesis) v. Colombia*.

compliance with judgments.⁴⁷ It also began deliberations to render judgment in the case of *Mendoza et al. v. Argentina*.⁴⁸

In addition, the Court issued seven orders on provisional measures,⁴⁹ five orders on monitoring compliance,⁵⁰ and one order on the Victims' Legal Assistance Fund.⁵¹

➤ **Forty-seventh special session**

The Court held its forty-seventh special session in Medellín, Republic of Colombia, from March 18 to 22, 2013. The special session was inaugurated on March 18 by the President of the Republic of Colombia, Juan Manuel Santos, the President of the Inter-American Court of Human Rights, Diego García-Sayán, Sergio Fajardo Valderrama, Governor of Antioquia and Aníbal Gaviria Correa, Mayor of Medellín. Juan Carlos Pinzón Bueno, Minister of Defense, and Fernando Jaramillo, Minister of the Interior were also present at the head table.



During this session, the Court held three public hearings on contentious cases.⁵² It also issued one order on monitoring compliance.⁵³

⁴⁷ Case of *Five Pensioners v. Peru*, Case of *Acevedo Jaramillo et al. v. Peru*, and Case of *Gelman v. Uruguay*.

⁴⁸ Case of *Mendoza et al. v. Argentina*. Article 54(3) of the American Convention establishes that judges "shall continue to serve with regard to cases that they have begun to hear and that are still pending, for which purpose halls shall not be replaced by the newly elected judges"; thus, the composition of the Court for the deliberation and signature of this judgment was as follows:

- 1) Diego García-Sayán, President;
- 2) Manuel E. Ventura Robles, Vice President;
- 3) Margarette May Macaulay, Judge;
- 4) Rhadys Abreu Blondet, Judge, and
- 5) Alberto Pérez Pérez, Judge

⁴⁹ *Matter of Castro Rodríguez with regard to Mexico*. Order of the Inter-American Court of Human Rights of February 13, 2013; *Matter of Wong Ho Wing with regard to Peru*. Order of the Inter-American Court of Human Rights of February 13, 2013; *Matter of Millacura Llaipén et al. with regard to Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013; *Case of the Barrios Family with regard to Venezuela*. Order of the Inter-American Court of Human Rights of February 13, 2013; *Matter of Certain Venezuelan Prisons. Penitentiary Center of the Central Occidental Region (Uribana Prison)) with regard to Venezuela*. Order of the Inter-American Court of Human Rights of February 13, 2013; *Case of Pacheco Teruel et al. with regard to Honduras*. Order of the Inter-American Court of Human Rights of February 13, 2013; and *Matter of Giraldo Cardona et al. with regard to Colombia*. Order of the Inter-American Court of Human Rights of February 8, 2013.

⁵⁰ Case of *Vélez Loo v. Panama*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 13, 2013; Case of *Gómez Palomino v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 13, 2013; Case of *Albán Cornejo et al. v. Ecuador*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013; Case of *Kimel v. Argentina*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013, and Case of *Baena Ricardo et al. v. Panama*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013.

⁵¹ Case of *Torres Millacura et al. v. Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013.

⁵² Case of *Camba Campos v. Ecuador*, Case of the *Pacheco Tineo family v. Bolivia*, and Case of *García Lucero et al. v. Chile*.

⁵³ Case of *Gelman v. Uruguay*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 20, 2013.



In addition, the Court organized a seminar entitled “The Inter-American Human Rights System: tendencies and complementarities,” in which, in addition to the judges of the Inter-American Court, the speakers included well-known figures from Colombian judicial and academic circles and representatives of non-governmental organizations.

The program and a video recording of the seminar are available at the following link:

<http://vimeo.com/album/2350728>

➤ **Ninety-ninth regular session**

The Court held its ninety-ninth regular session in San José, Costa Rica, from May 13 to 30, 2013. During the session, the Court held four public hearings on contentious cases,⁵⁴ one public hearing on provisional measures,⁵⁵ and eight private hearings on monitoring compliance with judgments.⁵⁶ It also began deliberations on the judgment in the case of *Mémoli v. Argentina* and delivered two judgments.⁵⁷

Additionally, the Court issued six orders on provisional measures,⁵⁸ seven orders on monitoring compliance,⁵⁹ one order denying a request to maintain someone’s identity confidential,⁶⁰ and three orders on the Victims’ Legal Assistance Fund.⁶¹

⁵⁴ Case of *Véliz Franco v. Guatemala*, *Case of J v. Peru*, *Case of Gutiérrez and family v. Argentina*, and *Case of Norín Catrimán et al. (Lonkos, leaders and activists of the Mapuche indigenous people) v. Chile*.

⁵⁵ Case of the *Barrios Family v. Venezuela*.

⁵⁶ Case of *López Álvarez Vs Honduras*, *Case of Anzualdo Castro v. Peru*, *Case of Juan Humberto Sánchez v. Honduras*, *Case of Acevedo Buendía et al. (Dismissed and Retired Employees of the Comptroller’s Office) v. Peru*, *Case of the Saramaka People v. Suriname*, *Case of the Yean and Bósico Girls v. Dominican Republic*, *Case of Yatama v. Nicaragua*, and *Case of the Pueblo Bello Massacre v. Colombia*.

⁵⁷ *Case of Mendoza et al. v. Argentina*, and *Suárez Peralta v. Ecuador*.

⁵⁸ *Case of the Barrios Family with regard to Venezuela*. Order of the Inter-American Court of Human Rights of May 30, 2013; *Matter of B. with regard to El Salvador*. Order of the Inter-American Court of Human Rights of May 29, 2013; *Matter of Wong Ho Wing with regard to Peru*. Order of the Inter-American Court of Human Rights of May 22, 2013; *Matter of the Jiguamiandó and the Curvaradó Communities with regard to Colombia*. Order of the Inter-American Court of Human Rights of May 22, 2013; *Matter of Álvarez et al. with regard to Colombia*. Order of the Inter-American Court of Human Rights of May 22, 2013; and *Matter of Dottin et al. with regard to Trinidad and Tobago*. Order of the Inter-American Court of Human Rights of May 14, 2013.

⁵⁹ *Case of López Álvarez v. Honduras*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 29, 2013; *Case of Abrill Alosilla et al. v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 22, 2013; *Case of the Ituango Massacres v. Colombia*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 21, 2013; *Case of González et al. (“Cotton Field”) v. Mexico*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 21, 2013; *Case of Contreras et al. v. El Salvador*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013; *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013; and *Case of Radilla Pacheco v. Mexico*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013.

⁶⁰ *Case of Mendoza et al. v. Argentina*. Order of May 14, 2013.

⁶¹ *Case of Contreras et al. v. El Salvador*, *Case of the Massacres of El Mozote and nearby places v. El Salvador*, *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*. Orders of May 14, 2013.

➤ **One hundredth regular session**

The Court held its one hundredth regular session in San José, Costa Rica, from August 19 to September 6, 2013. During this session, it held two public hearings on contentious cases,⁶² and one private hearing on monitoring compliance with judgment.⁶³ In addition it began deliberating in order to deliver judgment in the case of *Luna López v. Honduras*, and handed down seven judgments.⁶⁴

The Court also issued nine orders on provisional measures,⁶⁵ nine orders on monitoring compliance,⁶⁶ and one order on the Victims' Legal Assistance Fund.⁶⁷

➤ **Forty-eighth special session**

The Court held its forty-eighth special session in Mexico City from October 7 to 11, 2013. The inauguration was held at the seat of the Supreme Court of Justice of the Nation, with the participation of its President, Juan Silva Meza; the President of the Inter-American Court, Diego García-Sayán, and the Minister of the Interior, Miguel Ángel Osorio Chong, representing President Enrique Peña Nieto, who was abroad at the time.



During this session, one public hearing was held on a contentious case,⁶⁸ and another on a request for an advisory opinion.⁶⁹ In addition, a judgment was handed down.⁷⁰

⁶² *Case of Osorio Rivera et al. v. Peru*, and *Case of Brewer Carías v. Venezuela*.

⁶³ *Case of the Miguel Castro Castro Prison v. Peru*.

⁶⁴ *Cases of Mévoli v. Argentina*, *Quintana Coello et al. v. Ecuador*, *Constitutional Tribunal (Camba Campos et al.) v. Ecuador*, *García Lucero et al. v. Chile* (judgments on merits); case of the Santo Domingo Massacre *v. Colombia* (request for interpretation of judgment); cases of the *Massacres of El Mozote and nearby places v. El Salvador* and *Gudiel Álvarez et al. ("Diario Militar") v. Guatemala* (judgments on interpretation).

⁶⁵ *Matter of Castro Rodríguez with regard to Mexico*. Order of the Inter-American Court of Human Rights of August 23, 2013; *Matter of Wong Ho Wing with regard to Peru*. Order of the Inter-American Court of Human Rights of August 22, 2013; *Matter of the Socio-educational Internment Facility with regard to Brazil*. Order of the Inter-American Court of Human Rights of August 21, 2013; *Case of Pacheco Teruel et al. with regard to Honduras*. Order of the Inter-American Court of Human Rights of August 21, 2013; *Matter of Adrián Meléndez Quijano et al. with regard to El Salvador*. Order of the Inter-American Court of Human Rights of August 21, 2013; *Matter of B. with regard to El Salvador*. Order of the Inter-American Court of Human Rights of August 19, 2013; *Matter of Marta Colomina with regard to Venezuela*. Order of the Inter-American Court of Human Rights of August 19, 2013; *Matter of Guerrero Larez with regard to Venezuela*. Order of the Inter-American Court of Human Rights of August 19, 2013, and *Matter of Natera Balboa with regard to Venezuela*. Order of the Inter-American Court of Human Rights of August 19, 2013.

⁶⁶ *Case of the Saramaka People v. Suriname*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 4, 2013; *Case of Castañeda Gutman v. Mexico*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 28, 2013; *Case of Yatama v. Nicaragua*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013; *Case of Salvador Chiriboga v. Ecuador*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013; *Case of Chitay Nech et al. v. Guatemala*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013; *Case of Juan Humberto Sánchez v. Honduras*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013; *Case of Cabrera García and Montiel Flores v. Mexico*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013; *Case of Huilca Tecse v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013; and *Case of Anzualdo Castro v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013.

⁶⁷ *Case of Fornerón and daughter v. Argentina*. Order of August 22, 2013.

⁶⁸ *Case of Tide Méndez et al. v. Dominican Republic*.

In addition, the Inter-American Court of Human Rights was invited to a working meeting with the President of the United Mexican States, Enrique Peña Nieto. The Court also met with the justices of the Supreme Court of Justice of the Nation, the Minister of the Interior, and the Vice Minister of Legal Affairs and Human Rights. The plenary of the Court also visited the Senate and the Chamber of Representatives, the Electoral Court of the Judiciary of the Federation, and the offices of the International Committee of the Red Cross.



The Court also organized and held, together with the Supreme Court of Justice of the Nation, an international seminar on dialogue on case law and impact of the judgments of the Inter-American Court of Human Rights, which took place in the “José Vasconcelos” Library, in Mexico City.

The program and an audiovisual presentation of the seminar can be found at the following link:

<http://vimeo.com/album/2565106>

➤ **Forty-ninth special session**

The Court held its forty-ninth special session in Brasilia, Brazil, from November 11 to 15, 2013. The session was inaugurated by a formal meeting held in the Plenary Chamber of the Supreme Federal Court of Brazil, with the participation of Justice Joaquim Barbosa, President of the Supreme Federal Court, José Eduardo Cardozo, Minister of Justice – on behalf of the President Dilma Rousseff, who was abroad at the time – and Diego García-Sayán, President of the Inter-American Court.



⁶⁹ Request for advisory opinion on migrant children submitted by the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay.

⁷⁰ Case of *Luna López v. Honduras*.

During this session, the Court held two public hearings on a contentious case (one on preliminary objections and another on possible merits, reparations and costs).⁷¹ It also began deliberations in order to render judgment in the case of *Gutiérrez and family v. Argentina*.



On November 14, the plenary of the Inter-American Court visited the President of the Federative Republic of Brazil, Dilma Rousseff. Also, at the invitation of the President Dilma Rousseff, the President of the Court, Diego García-Sayán and Judge Roberto F. Caldas took part in the ceremony held in Brasilia to receive the mortal remains of former President Joao Goulart who had died in exile in Argentina 37 years previously.

In addition, the Court, in conjunction with the Supreme Court of Brazil, organized an international seminar entitled "The impact of the decisions of the Inter-American Court of Human Rights."

➤ **One hundred and first regular session**

The Court held its one hundred and first regular session in San José, Costa Rica from November 18 to 29, 2013. During this session it delivered six judgments.⁷²

It also issued an order on provisional measures,⁷³ and four orders on monitoring compliance.⁷⁴

3.2 Contentious function

A) CASES SUBMITTED TO THE COURT

During 2013, 11 new contentious cases were submitted to the Court's consideration:

- **Triunfo de la Cruz Garifuna Community and its members v. Honduras**

On January 21, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed failure to protect the ancestral territory of the Triunfo de la Cruz Community from occupation and usurpation by third parties, which had allegedly resulted, and maintained the community in a situation of permanent conflict owing to the actions of private third parties and public authorities on their territory. Furthermore, the sale of community land by State authorities had an adverse impact on the ancestral territory and had led to harassment, threats, and even the murder and detention of leaders and community authorities.

⁷¹ Case of *Rodríguez Vera et al. v. Colombia*.

⁷² Cases of *Gutiérrez and family v. Argentina*, *Pacheco Tineo family v. Bolivia*, *Marino López et al. (Operation Genesis) v. Colombia*, *García Cruz and Sánchez Silvestre v. Mexico*, *Osorio Rivera et al. v. Peru*, and *J. v. Peru*.

⁷³ *Matter of Flores et al. in relation to the Case of Torres Millacura et al. v. Argentina*. Order of the Inter-American Court of Human Rights of November 26, 2013.

⁷⁴ Case of *García Asto and Ramírez Rojas v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013., Case of *Atala Riffo and daughters v. Chile*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013, Case of *Cesti Hurtado v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2012, and Case of *Castillo Páez v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013.

In addition, the community presumably did not have a title to its ancestral territory that would be suitable and culturally appropriate, and access to some areas of their ancestral territory had been restricted by the creation of protected areas, all of which had resulted in obstacles to maintaining their traditional way of life.

The case also concerns the presumed failure to conduct a prior, free and informed consultation of the Triunfo de la Cruz Community and its members regarding the adoption of decisions that affected the territory that they have occupied historically, including the execution of tourism projects and mega-projects, the creation of a protected area in part of the ancestral territory, and the sale of community land. In addition, the community has not had access to a remedy that takes into account their particularities, their social and economic characteristics, and their customary law, values, customs and traditions in the context of processes relating to collective property. The Commission considered that the victims did not have effective access to justice in relation to the complaints relating to the sale of ancestral lands; the threats, acts of violence, harassment and persecution suffered by their authorities and leaders, and the situation of constant violence and insecurity originated by third parties on their territory.

- **The Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama**

On February 26, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed failure of the State of Panama to comply with its obligation to provide the Kuna indigenous people of Madungandí and the Emberá indigenous people of Bayano and their members with an adequate and effective procedure to access their ancestral territory, as well as to obtain a response to the numerous complaints of interference by third parties on their territory and with natural resources. From the perspective of the right to equality and non-discrimination, the series of violations committed against these two indigenous peoples has allegedly constituted a manifestation of discrimination reflected in the existence of laws that respond to a policy of assimilation, and this has supposedly contributed to the violations of the right to the ownership of the ancestral territory and to the natural resources of the indigenous peoples.

Specifically, the case refers to the presumed continuing violation of the right to collective property of the Kuna indigenous people of Madungandí and the Emberá indigenous people of Bayano and their members as a result of the failure, to date, of the State of Panama to pay financial compensation for the usurpation and flooding of the ancestral territories of the victims since 1969. The case also concerns the presumed failure to recognize, demarcate and award title to the land granted to the Kuna indigenous people of Madungandí over a long period of time, and to recognize, demarcate and award title to the land granted to the Emberá indigenous people of Bayano. The State's failure to comply with its obligations in relation to the collective ownership of the indigenous peoples has allegedly been accompanied by a systematic disregard for the numerous legal undertakings made by the State, even up until 2010. Furthermore, the Commission alleged that the Panamanian State has failed to comply with its obligations of prevention in relation to the invasion of settlers and illegal logging, under its duty to provide effective protection to the territory and natural resources of the Kuna indigenous people of Madungandí and the Emberá indigenous people of Bayano and their members.

- **Marcel Granier *et al.* v. Venezuela**

On February 28, 2013, the Inter-American Commission submitted this case to the Court. It relates to the decision of the Venezuelan State not to renew the concession of the Radio Caracas Televisión (RCTV) channel, as a result of which RCTV ceased to broadcast as an open television station on May 28, 2007, with a presumed impact on the freedom of expression of shareholders, management and journalists.

The Commission concluded that this decision violated the right to freedom of expression, the right to equality and non-discrimination, and due administrative process. Although the official purpose indicated by the State to justify this decision was to promote diversity and pluralism, which is a legitimate public interest, the evidence in the case file revealed that the decision was taken based on the channel's editorial line. Hence, it had allegedly constituted an abuse of power and an indirect restriction incompatible with the right to freedom of expression. Also, according to the Commission, RCTV was treated differently from other operators of television channels in identical circumstances as regards the concession. The Commission examined the difference in treatment rigorously and concluded that the State had not been able to justify its actions and, consequently, that it had also violated the right to equality and non-discrimination. In addition, the Commission concluded that the procedure resulting in the seizure of the channel's property had violated due administrative process.

- **García Cruz and Sánchez Silvestre v. Mexico**

On March 17, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed illegal detention and torture of Juan García Cruz and Santiago Sánchez Silvestre, as well as to their subsequent sentencing to 3 years' and 40 years' imprisonment, as a result of two criminal trials in which the guarantees of due process had not been respected and, in particular, owing to the presumed use of their confessions obtained under torture, and to the alleged failure to investigate and punish the reported acts.

According to the Commission, starting from the time of the initial measures taken in the investigation in June 1997, and during the proceedings against them, Messrs. García Cruz and Sánchez Silvestre denounced repeatedly before the pertinent judicial authorities that they had been injured by State agents while giving their statements before the prosecutor so that they would accept their guilt for the acts that they had been charged with. Nevertheless, the judicial and prosecution authorities had not opened an investigation based on the medical certificates and the reports received, and it was not until 2002 that a preliminary investigation was opened with regard to presumed injuries; however, this was closed because Juan García Cruz and Santiago Sánchez Silvestre had not filed a criminal complaint.

The victims had been investigated and prosecuted during two criminal proceedings processed on the basis of these same statements before the prosecutor, in which they stated that their detention had not occurred in the place indicated by the judicial police who made the arrest, and that they had been injured and tortured by the latter. The courts had assessed these statements in light of their presumed guilt and the burden of proof had been placed on them, violating the principle of the presumption of innocence. Furthermore, according to the Commission, during the initial stages of these proceedings, Messrs. García Cruz and Sánchez Silvestre had not received adequate legal assistance, which violated their right to defend themselves.

The Court delivered judgment in this case on November 26, 2013 (*infra* 3.2.c).

- **Rochac Hernández *et al.* v. El Salvador**

On March 21, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed forced disappearance of the boys José Adrián Rochac Hernández, Santos Ernesto Salinas, Manuel Antonio Bonilla Osorio, Ricardo Ayala Abarca, and the girl, Emelinda Lorena Hernández. These disappearances allegedly took place between 1980 and 1982 under similar circumstances: in the context of the armed conflict, following military operations of the so-called “counterinsurgency,” during which their family members were either able to escape or were murdered. These children were last seen with members of the armed forces and had presumably been taken by soldiers who then decided their fate.

More than 30 years after their disappearances, neither the fate nor the whereabouts of any of the five presumed victims has been established. According to the Commission, these facts remain unpunished, because the State did not conduct a thorough and effective investigation, within a reasonable time, into the forced disappearance of the presumed victims as a mechanism to guarantee their rights, as well as to ensure the rights to truth, justice and reparation of their family members. According to the Commission, El Salvador also violated the rights of the family and the special protection of children, because it was the State itself, through its armed forces, that caused the separation of the victims from their birth families by their alleged forced disappearance.

- **Zulema Tarazona Arrieta *et al.* v. Peru**

On June 3, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed death of Zulema Tarazona Arrieta and Norma Teresa Pérez Chávez, as well as the injuries caused to Luis Bejarano Laura on August 9, 1994, as a result of shots fired by a member of the Army against a public transport vehicle in which the victims were traveling. These events allegedly occurred in the context of an action by members of the Army to intercept the vehicle. Following the shots, the soldiers withdrew without offering any assistance to the victims and without advising their superior about what had happened. The Commission concluded that these facts constituted an arbitrary deprivation of the life of the two victims who died, as well as a violation of the right to personal integrity of the person who was injured.

The Commission indicated that partial reparation had been made for the violation because, before it ruled on the merits of the case, it was informed of a final judgment of the judicial authorities establishing the pertinent responsibilities, as well as the payment of compensation to the next of kin of Zulema Tarazona Arrieta, Norma Teresa Pérez Chávez and Luis Alberto Bejarano Laura. However, according to the Commission, the Peruvian State had not made reparation to the next of kin of the victims for the situation of impunity in which the events remained over an unreasonable period of 14 years as a result of the lack of due diligence during the initial stages, the intervention of the military criminal justice system, the existence of Law 26,479 (the Amnesty Act), and the delay in re-opening the investigation when that law ceased to take effect.

- **Peasant Community of Santa Bárbara v. Peru**

On July 8, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed forced disappearance of 15 persons, most of whom were members of two families, and who included seven children from eight months to seven years of age. These events were allegedly committed by members of the Peruvian army and took place on July 4, 1991, in the community of Santa Bárbara, in the province of Huancavélica. According to the Commission, the facts remain unpunished, and the Peruvian State is responsible for the violation of the rights to personal liberty, personal integrity, life, and juridical personality, as well as for the violation of the rights of the child, the rights of the family, and the rights to judicial guarantees and judicial protection.

- **Punta Piedra Garífuna Community and its members v. Honduras**

On October 1, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed violation of the right to property of the Punta Piedra Garífuna Community and its members as a result of the alleged failure to comply with the obligation to guarantee rights, owing to the invasion by non-indigenous persons of the lands and territories of the Community, which were subsequently recognized to the Community by granting them full title. However, this award of land titles was supposedly carried out without an adequate regularization process, and despite alleged awareness of the occupation of different parts of the Community's lands and territories, especially in Río Miel and the wooded area, by a group of settlers. This situation has meant that the Punta Piedra Garífuna Community has only been able to exercise real ownership over half the territory to which the State had awarded them title, with the consequent impact on their way of life, means of continued existence, culture, and traditional customs. In addition, the continuing occupation by non-indigenous persons has supposedly originated a conflictive situation that has resulted in threats, harassment and even the death of one member of the Punta Piedra Garífuna Community.

According to the Commission, the State of Honduras has not provided an effective response to this situation. To date, all initiatives have failed and the State has not fulfilled the agreements made to achieve the effective regularization of the lands and territories of the Punta Piedra Garífuna Community. This situation has exacerbated the conflictive situation in the area. In addition, the Commission alleged that the Community has not had an effective remedy to achieve peaceful ownership of their lands and territories.

- **Wong Ho Wing v. Peru**

On October 30, 2013, the Inter-American Commission submitted this case to the Court. It relates to a presumed series of violations of the rights of Wong Ho Wing, a national of the People's Republic of China, from the time of his arrest in Peru on October 27, 2008, throughout the extradition process that continues in effect to date. The presumed victim was detained in Peru owing to an arrest warrant for purposes of extradition issued by the People's Republic of China. On January 27, 2010, the Supreme Court of Justice issued a ruling in favor of his extradition, but referred the final decision on the handing over of Wong Ho Wing to the Executive Branch. However, on May 24, 2011, the Constitutional Court ordered the Executive to abstain from extraditing the presumed victim. At the date the case was submitted to the Court, the Executive had still not adopted its final decision with regard to the request for the extradition of Wong Ho Wing.

In its merits report, the Commission concluded that Wong Ho Wing had been and continues to be subject to an arbitrary and excessive deprivation of liberty that was not justified by procedural purposes and that had continued for more than five years under the mechanism of “provisional detention,” without a final decision having been made on his legal situation.

The Commission also concluded that, during the different stages of the extradition process, the domestic authorities had committed a series of omissions and irregularities in the processing of the procedure, and in the reception and assessment of the supposed guarantees given by the People’s Republic of China. The Commission considered that, in addition to violations of several elements of due process of law, these omissions and irregularities had constituted failure to comply with the obligation to guarantee the right to life and to personal integrity of Wong Ho Wing, in view of the presumed risk of torture and the possible application of the death penalty.

- **García Ibarra and family v. Ecuador**

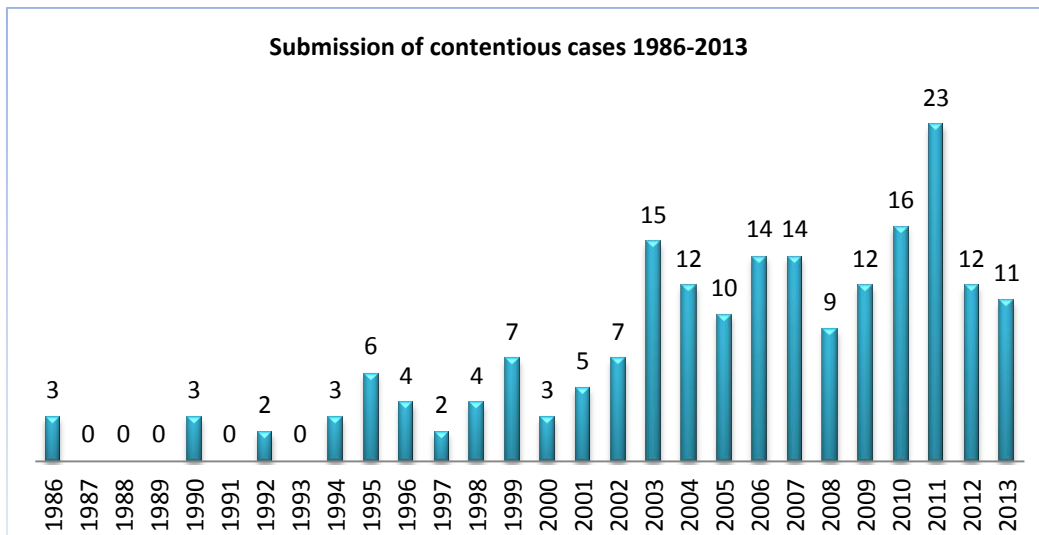
On November 23, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed extrajudicial execution of the minor José Luís García Ibarra on September 15, 1992, when he was 16 years old, by an agent of the National Police, assigned to the No. 14 Provincial Command of the National Police in the city of Esmeraldas. According to the Commission, the child García Ibarra was in a public place with a group of friends when the police agent approached and clashed with an adolescent who was present. During this dispute, the police agent allegedly fired his gun hitting José Luís García Ibarra, who died immediately.

According to the Commission, despite the seriousness of the facts, the investigation and the criminal proceeding culminated in a guilty verdict of unintentional homicide, with a penalty of 18 months’ imprisonment. It also indicated that the judicial proceeding had not complied with the minimum standards for justice in this type of incident and that the delay of more than nine years was not due to the measures that were taken, but to the negligence and inactivity of the domestic authorities. The Commission also alleged that, at no time during the investigation, either at the initial stage or subsequently, were the minimum measures taken that, according to the international standards concerning extrajudicial execution, are fundamental to clarify a hypothesis of “accidental homicide” or “confrontation.” Specifically, the investigative authorities failed to obtain technical evidence that could have elucidated the facts. In addition, the Commission indicated that the Supreme Court of Justice of Ecuador acknowledged the existence of certain irregularities, but failed to take any steps to correct them. In sum, the presumed extrajudicial execution of José Luís García Ibarra remains in partial impunity and his family has not been able to obtain a judicial clarification of what happened.

- **Carlos Alberto Canales Huapaya et al. v. Peru**

On December 5, 2013, the Inter-American Commission submitted this case to the Court. It relates to the presumed violation of the right to judicial guarantees and judicial protection of Carlos Alberto Canales Huapaya, José Castro Ballena and Gracia Barriga Oré, as a result of the lack of an adequate and effective judicial response to their dismissal from their posts as permanent officials of the Congress of the Republic of Peru.

As can be seen from the following graph, in 2013, the Inter-American Commission submitted less cases than in the four previous years:



B) HEARINGS

During 2013, 17 public hearings were held on contentious cases. At these hearings the oral statements of 19 presumed victims, 17 witnesses, 23 expert witnesses, and 3 deponents for purposes of information were received, for a total of 62 statements.

- **Case of Quintana Coello *et al.* v. Ecuador**

On February 4 and 5, during its ninety-eighth regular session, the Court heard the statement of one of the presumed victims and the opinions of three expert witnesses, two of them proposed by the State and the other proposed by the representatives of the presumed victims. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/quintana_20_12_12.pdf

- **Case of Liakat Ali Alibux v. Suriname**

On February 6, during its ninety-eighth regular session, the Court held a hearing at which it heard the statement of the presumed victim and the opinion of an expert witness proposed by the Commission. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/liakat_20_12_12.pdf

- **Case of Luna López v. Honduras**

On February 7, during its ninety-eighth regular session, the Court held a hearing at which it heard the statement of one of the presumed victims, of a witness proposed by the State, and of a witness and an expert witness proposed by the representatives of the presumed victims. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/luna_20_12_12.pdf

- **Case of Mémoli v. Argentina**

On February 8, during its ninety-eighth regular session, the Court held a hearing on preliminary objections, merits, reparations and costs in this case, at which it heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/memoli_19_12_12.pdf

- **Case of Suárez Peralta v. Ecuador**

On February 11, during its ninety-eighth regular session, the Court held the hearing on preliminary objections, merits, reparations and costs in this case, at which it heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/suarez_24_01_13.pdf

- **Case of the Afrodescendant Communities displaced from the Cacarica River basin (Operation Genesis) v. Colombia**

On February 11 and 12, during its ninety-eighth regular session, the Court held a hearing at which it heard the statements of two presumed victims and the opinion of one expert witness proposed by the representatives; one expert witness proposed by the Commission, and one deponent for information purposes, one expert witness and one witness proposed by the State. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/marinolopez_19_12_12.pdf

- **Case of the Constitutional Tribunal (Camba Campos *et al.*) v. Ecuador**

On March 18 and 19, during its forty-seventh special session, the Court held a hearing at which it heard the statement of one presumed victim and two expert witnesses, one of them proposed by the State and the other proposed by the Inter-American Commission. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/camba_15_02_13.pdf

- **Case of the Pacheco Tineo family v. Bolivia**

On March 19 and 20, during its forty-seventh special session, the Court held a hearing at which it heard the statement of two presumed victims, one witness proposed by the State and one expert witness proposed by the Inter-American Commission. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/pacheco_19_02_13.pdf

- **Case of García Lucero *et al.* v. Chile**

On March 20 and 21, during its forty-seventh special session, the Court held a hearing at which it heard the statement of one of the presumed victims and of one witness proposed by the State. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/garcialucero_14_02_13.pdf

- **Case of Véliz Franco v. Guatemala**

On May 15, during its ninety-ninth regular session, the Court held a hearing at which it heard the statement of one proposed victim and one expert witness, both proposed by the representatives of the presumed victims. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/velizfranco_10_04_13.pdf

- **Case of J. v. Peru**

On May 16, during its ninety-ninth regular session, the Court held a hearing at which it heard the statement of two witnesses, one proposed by the representative of the presumed victim and the other proposed by the State, one deponent for information purposes proposed by the State and one expert witness proposed by the Commission. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/j_16_04_13.pdf

- **Case of Gutiérrez and family v. Argentina**

On May 21 and 22, during its ninety-ninth regular session, the Court held a hearing at which it heard the statement of one presumed victim and one expert witness proposed by the representatives. In addition, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/gutierrez_20_12_12.pdf

- **Case of Norín Catrimán *et al.* (Lonkos, leaders and activists of the Mapuche indigenous people) v. Chile**

On May 29 and 30, during its ninety-ninth regular session, the Court held a hearing at which it heard the statement of two presumed victims; one of whom provided his statement by audiovisual means. In addition, the Court heard the statement of two witnesses, the first proposed by one of the common interveners of the representatives of the presumed victims⁷⁵ and the other by the State, and the opinions of three expert witnesses, one proposed by the common interveners and the Inter-American Commission, another proposed by a common intervener, and the third by the State. Lastly, the Court heard the final oral arguments of the parties, and the observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/norincatriman_30_04_13.pdf

- **Case of Osorio Rivera *et al.* v. Peru**

On August 29, during its one hundredth regular session, the Court held a hearing at which it heard the statements of one presumed victim and one expert witness proposed by the representatives of the presumed victims, as well as one witness proposed by the State, who

⁷⁵ The representatives of the eight presumed victims failed to reach agreement on the appointment of a common intervener of the representatives. The Court authorized the appointment of more than one common intervener in application of Article 25(2) of its Rules of Procedure. The representatives advised that the Center for Justice and International Law (CEJIL) and the World Human Rights Movement would act as common interveners on behalf of all the presumed victims.

took part in the hearing by videoconference. The Court also heard the final oral arguments of the parties, and the observations of the Inter-American Commission on Human Rights.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/osorio_08_07_13.pdf

- **Case of Brewer Carías v. Venezuela**

On September 3 and 4, during its one hundredth regular session, the Court held a hearing at which it heard the statements of the presumed victim, one witness and one expert witness proposed by the representatives, and also of four witnesses and one expert witness proposed by the State. In addition, the Court heard the final oral arguments of the parties on the preliminary objection and the eventual merits and reparations, and the observations of the Inter-American Commission on Human Rights

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/brewer_31_07_13.pdf

- **Case of Tide Méndez et al. v. Dominican Republic**

On October 8 and 9, during its forty-eighth special session, the Court held a hearing at which it heard the statement of the presumed victim and one expert witness proposed by the Commission, two expert witnesses proposed by the representatives, and two expert witnesses proposed by the State. In addition, the Court heard the final oral arguments of the parties on the preliminary objections and the eventual merits and reparations, and the observations of the Inter-American Commission in this regard.

The order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/tidemendez_06_09_13.pdf

- **Case of Rodríguez Vera et al. v. Colombia**

On November 12, during its forty-ninth special session, the Court held a special hearing on the preliminary objections in this case, during which it received the arguments of the parties and the observations of the Commission in this regard. Subsequently, on November 12 and 13, the Court held the hearing on the eventual merits, reparations and costs, at which it heard the statement of three presumed victims and one witness proposed by the representatives, one witness proposed by the State, one deponent for information purposes proposed by the representatives, and two expert witnesses, one proposed by the representatives and the other by the State. In addition, the Court heard the final oral arguments of the parties on the eventual merits, reparations and costs, and the observations of the Inter-American Commission in this regard.

The order decided to hold two separate hearings can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/rv_30_05_13.pdf

In addition, the order convening the hearing can be found at the following link:

http://www.corteidh.or.cr/docs/asuntos/rodriguez_16_10_13.pdf

All the video recordings of the hearings can be found at the following link:
<http://vimeo.com/corteidh>

C) JUDGMENTS

During 2013, the Court delivered 16 judgments, which can be divided into: (c.1) 13 judgments deciding the objections and/or the merits of contentious cases, and (c.2) two judgments on interpretation, and one on a request for interpretation.

c.1) Judgments in contentious cases

- **Case of Mendoza *et al.* v. Argentina. Preliminary objections, merits and reparations. Judgment of May 14, 2013. Series C No. 260**
 - **Summary:** This case concerns the arbitrary imposition of life sentences on five persons for crimes committed during their childhood. These sentences were imposed in application of a code of criminal procedure applied to adolescents that did not allow a wide-ranging review of their trials by a higher judge or court. In addition, the case relates to the absence of adequate medical care to one of the said persons when he was still a child; the subjection of two of them to torture, without a satisfactory investigation into this fact, as well as the lack of an adequate investigation into the death of one of these persons while in State custody.
 - **Ruling:** On May 14, 2013, the Inter-American Court of Human Rights delivered judgment declaring the Argentine Republic internationally responsible for the human rights violations that were committed by having imposed life sentences on five persons for crimes committed during their childhood. In addition, it declared the State internationally responsible because the code of criminal procedure applied in the cases involving these persons did not allow a wide-ranging review of their trials by a higher judge or court; because of the absence of adequate medical care for one of the said adolescents; because two of the said persons were tortured, with no adequate investigation of this fact, and for failing to conduct a satisfactory investigation into the death of one of them while in State custody.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_260_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_260_esp.pdf

- **Case of Suárez Peralta v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of May 21, 2013. Series C No. 261**

- **Summary:** This case concerns impunity owing to the lack of due diligence and the failure to expedite the criminal proceedings against those responsible for the medical malpractice of which Melba del Carmen Suárez Peralta was a victim.
- **Ruling:** On May 21, 2013, the Inter-American Court delivered judgment declaring that the State was internationally responsible for the violation of the right to judicial guarantees and judicial protection of Melba del Carmen Suárez Peralta and Melba Peralta Mendoza, as well as of the obligation to guarantee the right to personal integrity of Melba del Carmen Suárez Peralta.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_261_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_261_esp.pdf

- **Case of *Mémoli v. Argentina*. Preliminary objections, merits, reparations and costs. Judgment of August 22, 2013. Series C No. 265**

- **Summary:** This case concerns the supposed violation of the right to freedom of expression of Carlos and Pablo Carlos Mémoli, owing to the criminal conviction imposed on the victims based on the offense of libel. The case is also related to the supposed violation of the guarantee of a reasonable time in the context of the a civil action against them for the same facts, which allegedly had the effects of a punishment and inhibited their freedom of expression.
- **Ruling:** On August 22, 2013, the Inter-American Court delivered judgment declaring that the State was not responsible for the violation of the right to freedom of expression or for the violation of the principle of legality and retroactivity to the detriment of Messrs. Mémoli, owing to the sentences for libel imposed on them. The Court reiterated its case law on freedom of expression, according to which it does not consider that a punishment in relation to the expression of information or opinions is contrary to the American Convention, and concluded that, in this case, the punishments imposed on Messrs. Mémoli were a valid and legitimate measure under the American Convention to protect the honor and reputation of private individuals. Nevertheless, the Court established that the State was responsible for the violation of the judicial guarantee of a reasonable time, and the right to private property of Messrs. Mémoli owing to the excessive duration of the civil action for damages against them, throughout which they were prohibited from disposing of or encumbering their property. The State was therefore ordered to review this prohibition immediately and to annul this preventive measure.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_265_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_265_esp.pdf

- **Case of the Supreme Court of Justice (Quintana Coello *et al.*) v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 23, 2013. Series C No. 266**

- **Summary:** This case concerns the arbitrary removal of 27 justices of the Supreme Court of Justice by a parliamentary resolution of December 8, 2004, in the absence of a clear legal framework that regulated the causes and procedures for such a removal and in supposed disregard of the constitutional norms and minimum guarantees of due process of law.

- **Ruling:** On August 23, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the judicial guarantees, judicial protection and tenure of the justices.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_266_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_266_esp.pdf

- **Case of García Lucero *et al.* v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2013. Series C No. 267**

- **Summary:** This case concerns the alleged failure to investigate and make integral reparation for the torture suffered by Leopoldo García Lucero during the military regime in Chile, from the time of his detention on September 16, 1973, until June 12, 1975, since when he has been living in the United Kingdom, having left Chilean territory on the orders of the Ministry of the Interior.

- **Ruling:** On August 28, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the rights to judicial guarantees and judicial protection of Leopoldo Guillermo García Lucero.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_267_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_267_esp.pdf

- **Case of the Constitutional Tribunal (Camba Campos *et al.*) v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2013. Series C No. 268**

- **Summary:** This case concerns the arbitrary termination of eight members of the Constitutional Tribunal of Ecuador by a resolution of the National Congress, which constituted an *ad hoc* mechanism for the removal of the members of the Tribunal, in the absence of a legal

framework, and which infringed the principle of judicial independence and the guarantee of due process of law.

- **Ruling:** On August 28, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the judicial guarantees, judicial protection, and tenure of the members of the Tribunal.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_268_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_268_esp.pdf

- **Case of Luna López v. Honduras. Merits, reparations and costs. Judgment of October 10, 2013. Series C No. 269**
 - **Summary:** This case concerns the murder of Carlos Antonio Luna López, environmentalist and city counselor, as well as the supposed failure to investigate, prosecute and punish those responsible.
 - **Ruling:** On October 10, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the obligation to guarantee the right to life of Carlos Antonio Luna López, and the right to personal integrity of the direct family of Mr. Luna López.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_269_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_269_esp.pdf

- **Case of the Afrodescendant Communities displaced from the Cacarica River basin (Operation Genesis) v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2013. Series C No. 270**
 - **Summary:** This case concerns the human rights violations committed in the context of the so-called “Operation Genesis” conducted from February 24 to 27, 1997, among the Afrodescendant communities of the basin of the Cacarica River, department of El Chocó, which resulted in the death of Marino López Mena and the forced displacement of around 3,500 persons, many of whom were members of the Afrodescendant communities that lived on the banks of the Cacarica River. In addition, it was alleged that the right to communal property of these communities had been violated with regard to the territories that they had owned ancestrally and that the State had recognized to them, owing to the displacements and also to the illegal exploitation of natural resources by companies with the State’s permission or tolerance. In addition, it was alleged that there had been a failure to investigate the events and to punish

those responsible, as well as a lack of judicial protection in relation to these facts.

- **Ruling:** On November 20, 2013, the Inter-American Court delivered judgment declaring the international responsibility of the State for the violation of the rights to personal integrity and not to be forcibly displaced to the detriment of the Afrodescendant communities displaced from the banks of the Cacarica River and/or those who were present at the time of the paramilitary raids. In addition, the Court declared that the State was also responsible for the violation of the right to life and to personal integrity of Marino López Mena. It also declared the State's responsibility for the violation of the right to freedom of movement and residence and the right to personal integrity of the Afrodescendant communities of the Cacarica River basin who were forcibly displaced; for the violation of the right to personal integrity of the displaced children of the Afrodescendant communities of the Cacarica River basin, as well as of those who were born following the displacement; for the violation of the right to collective property of the members of the Afrodescendant communities displaced from the Cacarica River basin and of the members of the Community Council of the Communities of the Cacarica River Basin, and for the violation of the rights to judicial guarantees and judicial protection of the next of kin of Marino López, of the members of the Afrodescendant communities displaced from the Cacarica River basin, and of the Community Council of the Communities of the Cacarica River Basin.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_270_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_270_esp.pdf

- **Case of Gutiérrez and family v. Argentina. Merits, reparations and costs. Judgment of November 25, 2013. Series C No. 271**
 - **Summary:** This case concerns the extrajudicial execution, on August 29, 1994, of Assistant Commissioner Jorge Omar Gutiérrez who was investigating a customs warehouse that was later linked to the "case of the parallel customs' house"; the investigation and criminal proceedings that concluded with the judgment and verdict acquitting a federal police agent prosecuted for the murder of Mr. Gutiérrez; the subsequent investigations, and their consequences.
 - **Ruling:** On November 25, 2013, the Inter-American Court delivered the judgment in which it assessed positively the acknowledgement of international responsibility made by the State and that the parties had agreed to negotiate an agreement on reparations. The Court declared the international responsibility of the State for the participation of State agents in the extrajudicial execution of Assistant Commissioner Jorge Omar Gutiérrez, which signified a violation of the right to life. It also concluded that, owing to the irregularities and omissions in the investigation and processing of the facts by the competent State agents, as well as the obstructions and the threats to witnesses, in some cases perpetrated by the Federal Police, the State had not complied with the criteria of due diligence, effective judicial protection, and reasonable time, and that the facts remained in impunity in violation of the rights to judicial guarantees and to judicial protection of the next of kin of Jorge Omar Gutiérrez. The Court also concluded that the judicial proceedings had not observed the guarantees of due process established in Article 8 of

the American Convention on Human Rights. In addition, the Court noted that the extrajudicial execution of Jorge Omar Gutiérrez caused suffering, pain and anguish to his family, particularly because of the absence of an effective investigation to identify, prosecute and punish, as appropriate, the perpetrators of his execution despite their continuing efforts to discover the truth of the events, and the impunity that reigns in the case at this time. Consequently, the Court established that the State had violated the right to personal integrity.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_271_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_271_esp.pdf

- **Case of the Pacheco Tineo family v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 25, 2013. Series C No. 272**
- **Summary:** This case concerns the deportation of the Pacheco Tineo family to the State of Peru on February 24, 2001, as a result of the denial of an application for recognition of refugee status in the State of Bolivia, and the deportation decision adopted by that country's immigration authorities. The Pacheco Tineo family, consisting of Rumaldo Juan Pacheco Osco, his wife, Fredesvinda Tineo Godos, and their children Juana Guadalupe, Frida Edith and Juan Ricardo Pacheco Tineo (the latter of Chilean nationality), had entered Bolivia on February 19, 2001. The immigration authorities noted their irregular situation and took measures to deport them to Peru. Meanwhile Mr. Pacheco Osco asked the State of Bolivia to grant him and his family refugee status. It was alleged that this request was denied in a summary manner and in violation of the right to seek and receive asylum, the principle of non-refoulement, and guarantees of due process, following which the members of the family were deported to Peru.
- **Ruling:** On November 25, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the right to seek and be granted asylum, of the principle of non-refoulement, and of the rights to judicial guarantees and judicial protection of Rumaldo Juan Pacheco Osco and Fredesvinda Tineo Godos, and of Frida Edith, Juana Guadalupe and Juan Ricardo, all three with the surnames Pacheco Tineo. In addition, the Court declared the State responsible for violation of the right to mental and moral integrity of Rumaldo Juan Pacheco Osco, Fredesvinda Tineo Godos, and Frida Edith, Juana Guadalupe and Juan Ricardo, all three with the surname Pacheco Tineo. Lastly, the Court declared that the State was internationally responsible for the violation of the right to protection of children and of the family, to the detriment of Frida Edith, Juana Guadalupe and Juan Ricardo, all with the surnames Pacheco Tineo.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_272_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_272_esp.pdf

- **Case of García Cruz and Sánchez Silvestre v. Mexico. Merits, reparations and costs. Judgment of November 26, 2013. Series C No. 273**
- **Summary:** This case concerns the torture suffered by Juan García Cruz and Santiago Sánchez Silvestre when they were detained by the Judicial Police of the Federal District in June 1007, as well as the failure to investigate these facts. It also concerns the self-incriminating statements that they were obliged to give before the Public Prosecution Service, as well as the two trials and criminal convictions against them as a result of which they were sentenced to 3 and 40 years' imprisonment in violation of the guarantees of due process. Juan García Cruz and Santiago Sánchez Silvestre remained in prison for 15 years, 10 months and 12 days, until they were released on April 18, 2013, in compliance with judgments handed down by domestic courts following the submission of the case to the Inter-American Court.
- **Ruling:** On November 26, 2013, the Court delivered the judgment on merits, reparations and costs in this case, in which it decided to endorse the "Friendly settlement agreement and State acknowledgement of responsibility" signed on November 18⁷⁶ by the victims, their representatives, and the United Mexican States, and to accept the total acknowledgement of international responsibility made by the State in this agreement. The Court found that this agreement contained a settlement between the parties to the dispute in this case as regards the facts, human rights violations and establishment of measures of reparations. In addition, it emphasized the importance of the fact that this friendly settlement agreement had been reached at an early stage of the litigation before the Court, before the expiry of the time frame for the State to present its answering brief. This allowed the Inter-American Court to reach a judgment more promptly than if it had been necessary to complete the international proceedings, with the consequent obtaining of justice and reparation for the victims in the case. In addition, the Court stressed the importance that the State had acknowledged all the facts presented by the Commission in its merits report, even those that had occurred prior to the date on which Mexico accepted the contentious jurisdiction of the Court.

In accordance with the terms of the agreement between the parties and the acknowledgement of international responsibility in this case, the Court declared that the State was responsible for the violation of the rights to personal liberty, personal integrity, judicial guarantees and judicial protection, all in relation to the general obligation to respect the rights; for the violation of the provisions of Articles 1, 8 and 10 of the Inter-American Convention to Prevent and Punish Torture, and for the violation of the obligation to adopt provisions of domestic law in relation to Article 6 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Juan García Cruz and Santiago Sánchez Silvestre.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_273_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

⁷⁶ The parties met at the seat of the Court in San José, Costa Rica, in the presence of the then President of the Court, for the formal signature of the agreement.

http://www.corteidh.or.cr/docs/casos/articulos/resumen_273_esp.pdf

- **Case of Osorio Rivera and family members v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 26, 2013. Series C No. 274**
- **Summary:** This case concerns the forced disappearance of Jeremías Osorio Rivera, who was detained by a Peruvian Army patrol on April 28, 1991, and subsequently deprived of liberty in Nunumia where this patrol had its base, and where he was last seen by his family on the morning of April 30, 1991, in the State’s custody, when he was transferred to the Countersubversion Base of Cajatambo. Consequently, the military authorities who detained and transferred Mr. Osorio Rivera were responsible for safeguarding his rights. Today, more than 22 years after his detention, the next of kin of Mr. Osorio Rivera have no knowledge of his whereabouts, despite the steps they have taken. In addition, the State continues to maintain that the victim was released and, accordingly, denies his detention and whereabouts, which has meant that, to date, no response has been obtained indicating his fate. The disappearance of Mr. Osorio Rivera occurred in the context of a systematic and selective practice of forced disappearance as part of the State’s countersubversion policy during the internal armed conflict. The investigations into the forced disappearance of Jeremías Osorio Rivera culminated in the acquittal of the only person prosecuted.
- **Ruling:** On November 26, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the forced disappearance of Jeremías Osorio Rivera and for the consequent violation of his rights to personal liberty, personal integrity, life, and recognition of juridical personality. In addition, the Court concluded that the State was also responsible for the violation of the right to personal integrity to the detriment of his family members.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_274_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_274_esp.pdf

- **Case of J. v. Peru. Preliminary objection, merits, reparations and costs. Judgment of November 27, 2013. Series C No. 275**
- **Summary:** This case concerns the detention of Ms. J. on April 13, 1992, by State agents in the context of a police operation to continue “the inquiries regarding the weekly publication *El Diario*,” which was considered the vehicle used to aid and abet, and to disseminate information on *Sendero Luminoso* [Shining Path], as well as the judicial proceedings held against Ms. J. following the said detention. In addition, the case concerns certain acts against the personal integrity and private life of Ms. J. that occurred at the time of her detention.
- **Ruling:** On November 27, 2013, the Inter-American Court delivered judgment declaring the State internationally responsible for the violation of the personal liberty of Ms. J., her judicial guarantees, her personal integrity, and her private life. The Court also concluded that the

criminal proceedings that are underway against Ms. J, did not violate the guarantee of *non bis in idem*.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_275_esp.pdf

In addition, the official summary of the judgment in this case [in Spanish only] can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/resumen_275_esp.pdf

c.2) Judgments on interpretation and on a request or interpretation

- **Case of the Massacres of El Mozote and nearby places v. El Salvador. Interpretation of the judgment on merits, reparations and costs. Judgment of August 19, 2013. Series C No. 264**

- On August 19, 2013, the Court delivered judgment on the request for interpretation of the judgment on merits, reparations and costs in this case, in which it declared admissible the request for interpretation and clarified, by interpretation, based on paragraphs 310 and 311 and the second operative paragraph of the judgment on merits, reparations and costs handed down by the Inter-American Court on October 25, 2012, that the State's obligation to identify the executed victims, surviving victims, next of kin of the executed victims, and the forcibly displaced victims of the massacres of El Mozote and nearby places, under the "Unified List of Victims and Next of Kin of Victims of gross human rights violations during the Massacre of El Mozote," permits the inclusion of individuals even if the events of the massacres occurred in places nearby or adjoining the sites that the Court declared to be places affected in paragraph 57 of the judgment, provided that the State understands it in this way, in keeping with its acknowledgements of responsibility. In addition, the Court proceeded to rectify the expression "departmental capital of Arambala" that appeared in paragraph 56, substituting this by the correct expression of "municipality (urban area) of Arambala." Furthermore, the Court denied the element of the request for interpretation filed by the victims' representatives that sought to include places that were excluded by the Court, because this would have involved the modification of the provisions of paragraph 56 of the judgment on merits, reparations and costs.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_264_esp.pdf

- **Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala. Interpretation of the judgment on merits, reparations and costs. Judgment of August 19, 2013. Series C No. 262**

- On August 19, 2013, the Court delivered judgment on the request for interpretation of the judgment on merits, reparations and costs of November 20, 2012, in which it declared that the State's brief presented after the notification of the judgment did not constitute a request for interpretation, and did not affect the final and non-appealable nature of the judgment in this case. In addition, the Court declared the request for interpretation filed by the victims' representatives admissible and proceeded to rectify the material errors contained in paragraphs

367 and 388 of the judgment on merits, reparations and costs, with regard to the time frame for complying with the pecuniary obligations ordered in the judgment, as well as subparagraph “b” of paragraph 375 on the beneficiaries and the manner of distributing the compensation established in the said judgment. The Court also clarified by interpretation the meaning and scope of the provisions of paragraphs 364, 375 and 385 of the judgment with regard to the distribution criteria and beneficiaries of the compensation established in the judgment.

The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_262_esp.pdf

- **Case of the Santo Domingo Massacre v. Colombia. Request for interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of August 19, 2013. Series C No. 263**
- On August 19, 2013, the Court delivered judgment on the request for interpretation of the judgment on preliminary objections, merits, reparations and costs of November 30, 2012, and denied the request for interpretation filed by the representatives of the victims.

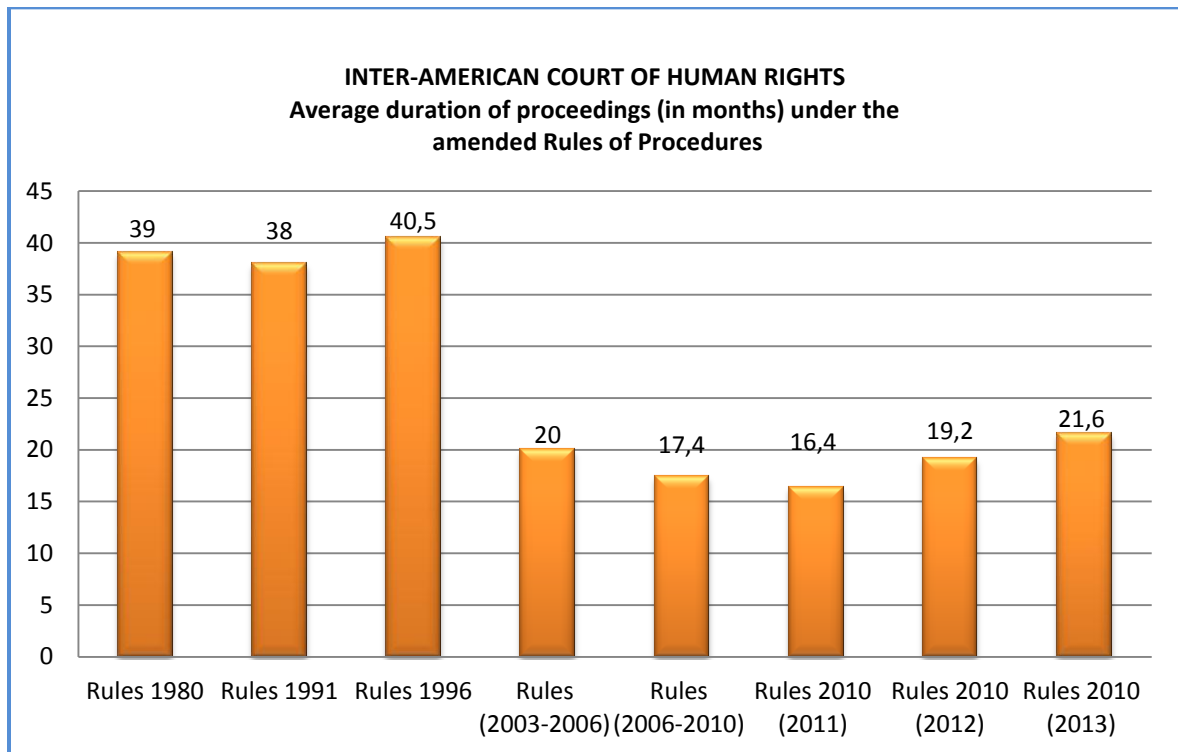
The judgment delivered in this case can be found at the following link:

http://www.corteidh.or.cr/docs/casos/articulos/seriec_263_esp.pdf

D) AVERAGE TIME TAKEN TO PROCESS CASES

Each year, the Court makes a significant effort to decide the cases before it promptly. 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 2013, the average duration of the processing of cases before the Court was 21.6 months. Although this is slightly longer than in preceding years, it was mainly due to the fact that, in 2013, the Court had a new composition incorporating three newly-elected judges, who had to begin to examine the different cases that were being processed.



E) MONITORING OF JUDGMENTS

Monitoring compliance with the Court's judgments has become one of the most demanding activities of the Court, because each year there is a considerable increase in the number of active cases, and the Court carries out a detailed and prompt monitoring of each reparation ordered in all of them.

The Inter-American Court held 12 private hearings⁷⁷ on monitoring compliance, all of them in order to receive updated and detailed information on compliance with the measures of reparation that the States had been ordered to take, and to hear the observations of the representatives of the victims and of the Inter-American Commission. In addition, the Court issued 26 orders on monitoring compliance with judgment.

e.1) Private hearings on monitoring compliance with judgment held in 2013

- **Case of the Five Pensioners v. Peru**

The hearing was held on February 13, 2013, during the ninety-eighth regular session, in order to monitor compliance with the judgment on merits, reparations and costs delivered by the Court on February 28, 2003.

⁷⁷ It should be noted that, in 2010, the Court began the practice of holding monitoring hearings concerning the same State, but referring to more than one case, when the measures of reparation related to a similar aspect.

- **Case of Acevedo Jaramillo et al. v. Peru**

The hearing was held on February 13, 2013, during the ninety-eighth regular session, in order to monitor compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on February 7, 2006.
- **Case of Gelman v. Uruguay**

The hearing was held on February 13, 2013, during the ninety-eighth regular session, in order to monitor compliance with the judgment on merits and reparations delivered by the Court on February 24, 2011.
- **López Álvarez v. Honduras**

The hearing was held on May 23, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on merits, reparations and costs delivered by the Court on February 1, 2006.
- **Anzualdo Castro v. Peru**

The hearing was held on May 23, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objection, merits, reparations and costs delivered by the Court on September 22, 2009.
- **Juan Humberto Sánchez v. Honduras**

The hearing was held on May 23, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objection, merits, reparations and costs delivered by the Court on June 7, 2003.
- **Acevedo Buendía et al. (“Dismissed and Retired Employees of the Comptroller’s Office”) v. Peru**

The hearing was held on May 23, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on July 1, 2009.
- **Pueblo Saramaka v. Suriname**

The hearing was held on May 28, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on November 28, 2007.
- **Yean and Bosico Girls v. Dominican Republic**

The hearing was held on May 28, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on September 8, 2005.
- **Yatama v. Nicaragua**

The hearing was held on May 28, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on June 23, 2005.

- **Pueblo Bello Massacre v. Colombia**

The hearing was held on May 28, 2013, during the ninety-ninth regular session, in order to monitor compliance with the judgment on merits, reparations and costs delivered by the Court on November 25, 2006.

- **Miguel Castro Castro Prison v. Peru**

The hearing was held on August 19, 2013, during the one hundredth regular session, in order to monitor compliance with the judgment on merits, reparations and costs delivered by the Court on November 25, 2006.

e.2) Orders on monitoring compliance with judgment issued in 2013

- **Case of García Asto and Ramírez Rojas v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/garcia_26_11_13.pdf

- **Case of Atala Riffo and daughters v. Chile.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/atala_26_11_13.pdf

- **Case of Cesti Hurtado v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/cesti_26_11_13.pdf

- **Case of Castillo Páez v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 26, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/castillo_26_11_13.pdf

- **Case of the Saramaka People v. Suriname.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 4, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/saramaka_04_09_13.pdf

- **Case of Castañeda Gutman v. Mexico.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 28, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/casta%C3%B1eda_28_08_13.pdf

- **Case of Yatama v. Nicaragua.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/yatama_22_08_13.pdf

- **Case of Salvador Chiriboga v. Ecuador.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/chiriboga_22_08_13.pdf

- **Case of Chitay Nech et al. v. Guatemala.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/chitay_22_08_13.pdf

- **Case of Juan Humberto Sánchez v. Honduras.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/juansa_22_08_13.pdf

- **Case of Cabrera García and Montiel Flores v. Mexico.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/cabrera_21_08_13.pdf

- **Case of Huilca Tecse v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/huilca_21_08_13.pdf

- **Case of Anzualdo Castro v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/anzualdo_21_08_13.pdf

- **Case of López Álvarez v. Honduras.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 29, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/lopezal_29_05_13.pdf

- **Case of Abrill Alosilla et al. v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/abrill_22_05_13.pdf

- **Case of the Ituango Massacres v. Colombia.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 21, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/masacres_21_05_13.pdf

- **Case of González et al. ("Cotton Field") v. Mexico.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 21, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/gonz%C3%A1lez_21_05_13.pdf

- **Case of Contreras et al. v. El Salvador.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/contreras_14_05_13.pdf

- **Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/ibsen_14_05_13.pdf

- **Case of Radilla Pacheco v. Mexico.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 14, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/radillapacheco_14_05_13.pdf

- **Case of Gelman v. Uruguay.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 20, 2013

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/gelman_20_03_13.pdf

- **Case of Vélez Looor v. Panama.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 13, 2013

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/Velez_13_02_13.pdf

- **Case of Gómez Palomino v. Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 13, 2013

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/gomez_13_02_13.pdf

- **Case of Albán Cornejo et al. v. Ecuador.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/cornejo_05_02_13.pdf

- **Case of Kimel v. Argentina.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/Kimel_05_02_13.pdf

- **Case of Baena Ricardo et al. v. Panama.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/baena_05_02_13.pdf

3.3 Provisional measures

During 2013, a public hearing was held on provisional measures in the case of *the Barrios family v. Venezuela*. In addition, 3 new provisional measures were adopted, 7 provisional measures were repeated or expanded, and 13 provisional measures were lifted (partially or totally).

A) ADOPTION OF PROVISIONAL MEASURES

During 2013, the Court adopted three new provisional measures:

- **Matter of Castro Rodríguez with regard to Mexico**

On November 30, 2012, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures in favor of Luz Estela Castro Rodríguez, for the Mexican State to protect her life and personal integrity. On February 13, 2013, the Court issued an order in which it decided to require the Mexican State to take any necessary and effective measures to avoid harm to the life and personal integrity of Luz Estela Castro; to take the pertinent steps to ensure that the measures of protection were planned and implemented with the participation of the representatives of the beneficiary, and to keep them informed of any progress in the implementation of the measures. In addition, on August 23, 2013, the Court issued an order in which it repeated the State's obligation to maintain the measures adopted.

These orders can be found at the following links:

http://www.corteidh.or.cr/docs/medidas/castrorodriguez_se_01.pdf

http://www.corteidh.or.cr/docs/medidas/castrorodriguez_se_02.pdf

- **Case of Pacheco Teruel *et al.* with regard to Honduras**

On January 23, 2013, the Jesuit Reflection and Investigation Team (ERIC-SJ), of the *Pastoral y Penitenciaria y Cáritas* Diocese of San Pedro Sula, on behalf of Sandra Lorena Ramos, submitted to the Court a request for provisional measures for the Honduran State to grant protection to Sandra Lorena Ramos Cárcamo and her three adolescent daughters. On February 13, 2013, the Court issued an order in which it decided to require the Honduran State to adopt any necessary and effective measures to avoid harm to the life and personal integrity of Sandra Lorena Ramos and her three adolescent daughters until September 30, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/pacheco_se_01.pdf

- **Matter of B. with regard to El Salvador**

On May 27, 2013, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures in favor of Ms. B.⁷⁸ On May 29, 2013, the Court issued an order in which it decided to require the Salvadoran State to adopt and guarantee, urgently, all necessary and effective measures to ensure that the group of doctors who were treating Ms. B. could adopt, without any interference, the medical procedures they considered opportune and appropriate to ensure due protection of the rights established in Articles 4 and 5 of the American Convention and, thus, avoid harm that could become irreparable to the rights to life, personal integrity and health of Ms. B.

⁷⁸ At the request of the Inter-American Commission, the identity of the woman in favor of whom the provisional measures were requested was kept confidential, and she is identified with the letter "B."

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/B_se_01.pdf

B) REPETITION OR EXPANSION OF PROVISIONAL MEASURES

In addition, in 2013 the Court issued eight orders on monitoring provisional measures, deciding to repeat or, when appropriate, expand such measures:

- **Case of the Socio-educational Internment Facility with regard to Brazil**

On December 30, 2010, the Inter-American Commission on Human Rights submitted a request for provisional measures to the Court. On February 25 and September 1, 2011, and April 26 and November 20, 2012, the Court issued orders in which, among other matters, it required the Federative Republic of Brazil to adopt immediately any necessary measures to provide effective protection to the life and personal integrity of all the children and adolescent deprived of liberty in the Socio-educational Internment Facility, as well as of any person within this establishment. On August 21, 2013, the Court issued an order in which it reiterated the State's obligation to maintain the measures adopted.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_06.pdf

- **Matter of Wong Ho Wing with regard to Peru**

On February 13, 2013, the Court issued an order in which it required the State to abstain from extraditing Wong Ho Wing until June 1, 2013, in order to permit the Inter-American Commission on Human Rights to examine and rule on case No. 12,794 before that organ. On May 22, 2013, the Court issued another order in which it extended the validity of the said provisional measure until August 30, 2013. Finally, on August 22, 2013, the Court issued an order in which it once again extended the validity of the provisional measure, this time until March 31, 2014.

These orders can be found at the following links:

http://www.corteidh.or.cr/docs/medidas/wong_se_10.pdf

http://www.corteidh.or.cr/docs/medidas/wong_se_11.pdf

http://www.corteidh.or.cr/docs/medidas/wong_se_12.pdf

- **Matter of Adrián Meléndez Quijano *et al.* with regard to El Salvador**

On August 21, 2013, the Court issued an order in which it agreed to maintain, as pertinent, the provisional measures ordered by the Inter-American Court of Human Rights in its orders of May 12 and November 26, 2007, and February 2, 2010, in favor of Adrián Meléndez Quijano, Marina Elizabeth García de Meléndez, Andrea Elizabeth Meléndez García, Estefanía Marcela Meléndez García, Pamela Michelle Meléndez García, Adriana María Meléndez García, Gloria Tránsito Quijano widow of Meléndez, Sandra Ivette Meléndez Quijano, Roxana Jacqueline Mejía Torres and Manuel Alejandro Meléndez Mejía, for an additional period that will expire on June 30, 2014.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/B_se_01.pdf

- **Case of the Barrios family with regard to Venezuela**

On February 13 and May 30, 2013, the Court issued two orders in which it ordered the Venezuelan State to maintain the provisional measures ordered by the Inter-American Court of Human Rights in its orders of November 23, 2004, June 29 and September 22, 2005, February 4 and November 25, 2010, February 21 and July 5, 2011, and February 13, 2013.

These orders can be found at the following links:

http://www.corteidh.or.cr/docs/medidas/familiabarrios_se_01.pdf

http://www.corteidh.or.cr/docs/medidas/barrios_se_02.pdf

- **Case of Almanza Suárez with regard to Colombia⁷⁹**

On May 22, 2013, the Court agreed to expand the provisional measures issued in this matter, so that the State would adopt the necessary measures to continue protecting the life and personal integrity of Luz Elsie Almanza Suárez.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/alvarez_se_19.pdf

- **Matter of Flores *et al.* in relation to the case of Torres Millacura *et al.* v. Argentina with regard to Argentina⁸⁰**

On February 13, 2013, the Court issued an order in which it required the State to adopt all necessary measures to protect the right to life and to personal integrity of Guillermo Flores and Alba Rosana Vera González.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/millacura_se_06.pdf

- **Matters of certain Venezuelan Penitentiary Centers, Penitentiary Center of the Central Occidental Region (Uribana Prison) with regard to Venezuela**

On February 13, 2013, the Court issued an order in which it required the State to maintain and adopt the necessary measures to continue protecting the life and personal integrity of the beneficiaries of the Penitentiary Center of the Central Occidental Region (Uribana Prison).

This order can be found at the following link:

⁷⁹ The Court changed the name of this case (previously, "*Álvarez et al.*") owing to the order on provisional measures of May 22, 2013.

⁸⁰ The Court changed the name of this case (previously "*Millacura Llaipén et al.*") owing to the order on provisional measures of February 13, 2013.

http://www.corteidh.or.cr/docs/medidas/centrospenitenciarios_se_04.pdf

C) LIFTING OF PROVISIONAL MEASURES OR PROVISIONAL MEASURES THAT CEASED TO HAVE A PURPOSE

During the year, the Court lifted 12 provisional measures partially (with regard to some beneficiaries) or completely (with regard to all the beneficiaries).

c.1) Measures lifted completely

- **Matter of Flores *et al.* in relation to the case of Torres Millacura *et al.* v. Argentina with regard to Argentina**

On November 26, 2013, the Court issued an order in which it decided to reject the request to expand the provisional measures in favor of María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Miguel Ángel Sánchez, Tamara Bolívar and Iván Eladio Torres; not to adopt provisional measures in favor of Verónica Heredia, and to lift the provisional measures required by the Inter-American Court of Human Rights in its order of February 13, 2013, in favor of Guillermo Flores and Alba Rosana Vera González.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/flores_se_01.pdf

- **Case of Pacheco Teruel *et al.* with regard to Honduras**

On August 21, 2013, the Court issued an order in which it decided to lift the provisional measures in favor of Sandra Lorena Ramos and her three adolescent daughters, notwithstanding the continued existence of the general obligations that correspond to the States under Article 1(1) of the American Convention on Human Rights.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/pacheco_se_02.pdf

- **Matter of B. with regard to El Salvador**

On August 19, 2013, the Court issued an order in which it decided to lift the provisional measures required in favor of Ms. B.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/B_se_02.pdf

- **Matter of Marta Colomina with regard to Venezuela**

On August 19, 2013, the Court issued an order in which it decided to lift the provisional measures required by the Inter-American Court in favor of Marta Colomina since July 30, 2003, notwithstanding the continued existence of the general obligations that correspond to the States under Article 1(1) of the American Convention on Human Rights.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/colomina_se_06.pdf

- **Matter of Guerrero Larez with regard to Venezuela**

On August 19, 2013, the Court issued an order in which it “deplor[ed] that the State had not complied with these provisional measures that were adopted to determine the situation and whereabouts of Francisco Dionel Guerrero Larez and to protect his life and personal integrity”; in addition, it decided to lift the provisional measures required by the Inter-American Court in its orders of November 17, 2009, and May 15, 2011, notwithstanding the continued existence of the general obligations that correspond to the States under Article 1(1) of the American Convention on Human Rights.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/larez_se_03.pdf

- **Matter of Natera Balboa with regard to Venezuela**

On August 19, 2013, the Court issued an order in which it “deplor[ed] that the State had not complied with these provisional measures that were adopted to determine the situation and whereabouts of Eduardo José Natera Balboa and to protect his life and personal integrity”; in addition, it decided to lift the provisional measures required by the Inter-American Court of Human Rights in its orders of February 1, 2010 and May 15, 2011, notwithstanding the continued existence of the general obligations that correspond to the States under Article 1(1) of the American Convention on Human Rights.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/natera_se_04.pdf

- **Matter of the Jiguamiandó and Curvaradó Communities with regard to Colombia**

On May 22, 2013, the Court issued an order in which it decided, in application of the principle of subsidiarity, and in the understanding that the Constitutional Court of Colombia would continue monitoring compliance with its orders to protect the communities of the basins of the Jiguamiandó and the Curvaradó Rivers, and that all the other pertinent authorities would continue to take the series of measures required to respond to the situation of vulnerability faced by these communities, to lift the provisional measures ordered by the Inter-American Court of Human Rights as of March 6, 2003, and ratified subsequently, in favor of the members of the humanitarian zones of Nueva Esperanza, Pueblo Nuevo, Caño Claro and El Tesoro, of the five biodiversity zones known as Erasmo Sierra, Enrique Petro, Familia Tuberquia, Ligia María Chaverra and Efrén Romaña, members of the Jiguamiandó and the Curvaradó communities.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/jiguamiando_se_13.pdf

- **Matter of Dottin *et al.* with regard to Trinidad and Tobago**

On May 14, 2013, the Court issued an order in which it decided lift the provisional measures in favor of Andrew Dottin, Arnold Ramlogan, Balkissoon Roodal, Beemal Ramnarace, Kevin Dial, Sheldon Roach and Takoor Ramcharan.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/dottin_se_01.pdf

c.2) Measures lifted partially or provisional measures that have ceased to have a purpose

- **Matter of Adrián Meléndez Quijano *et al.* with regard to El Salvador**

On August 21, 2013, the Court issued an order in which it decided to lift partially the provisional measures in favor of Benjamín Cuéllar Martínez and Henry Paul Fino Solórzano.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/melendez_se_06.pdf

- **Case of the Barrios family with regard to Venezuela**

On February 13, 2013, the Court issued an order in which it declared that the provisional measures adopted in favor of Víctor Tomás Navarro Barrios and Jorge Antonio Barrios had ceased to have a purpose owing to their decease. In addition, on May 30, 2013, the Court issued another order in which it declared that provisional measures adopted in favor of Roni David Barrios Alzul had ceased to have a purpose owing to his death.

These orders can be found at the following links:

http://www.corteidh.or.cr/docs/medidas/familiabarrios_se_01.pdf

http://www.corteidh.or.cr/docs/medidas/barrios_se_02.pdf

- **Matter of Almanza Suárez⁸¹ with regard to Colombia**

On May 22, 2013, the Court decided to lift the provisional measures for the ASFADDES offices and with regard to María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana Bautista, Daniel Prado, María Eugenia Cárdenas, Álvaro Guisao Usuga, Florentino Guisao Usuga, Gloria Gómez, Verónica Marín and Nemecio Oquendo, and also to lift the provisional measures ordered in favor of Silvia Elena Quintero.

⁸¹ The Court changed the name of this case (previously "Álvarez *et al.*") owing to the order on provisional measures of May 22, 2013.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/alvarez_se_19.pdf

- **Matter of Millacura Llaipén with regard to Argentina**

On February 13, 2013, the Court issued an order in which it decided to lift the provisional measures in favor of María Leontina Millacura Llaipén, Marcos Torres, Valeria Torres, Ivana Torres, Romina Torres, Evelyn Paola Caba, Miguel Ángel Sánchez and Tamara Bolívar.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/millacura_se_06.pdf

- **Matter of Giraldo Cardona *et al.* with regard to Colombia**

On February 8, 2013, the Court issued an order in which it decided to lift and conclude the provisional measures granted in favor of Mariela Duarte widow of Giraldo and her daughters Sara and Natalia Giraldo. In addition, in this order the Court decided to conclude its monitoring of the measure relating to the organization of a public act to re-open the "Civic Human Rights Committee of Meta." The Court ordered the State to maintain and adopt the necessary measures to continue protecting the life and personal integrity of Islena Rey Rodríguez.

This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/giraldo_se_13.pdf

3.4 Advisory function

Currently, the joint request for an advisory opinion presented by the MERCOSUR States, Argentina, Brazil, Paraguay and Uruguay is pending before the Court. This purpose of this request is that the Court "determine with greater precision the obligations of the State in relation to the possible measures to be adopted with regard to children, associated with 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."

On October 9 and 10, 2013, during its forty-eighth special session held in Mexico City D.F., a hearing was held on the said request for an advisory opinion. The hearing was attended by the States that had requested the advisory opinion: the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay. The other States that attended were as follows: the United Mexican States, the Republic of Costa Rica, the Republic of Guatemala, the Dominican Republic and the Republic of Panama. The hearing was also attended by representatives of the Inter-American Commission on Human Rights; the United Nations High Commissioner for Refugees (UNHCR); the United Nations Children's Fund (UNICEF), the International Organization for Migration (IOM), the Inter-American Association of Public Defenders (AIDEF); the Human Rights Commission of the Federal District; the *Centro para el Desarrollo de la Justicia Internacional, A.C.*; International Social Service (ISS), and the *Red*

Latinoamericana de Acogimiento Familiar (RELAF). In addition, the following attended the meeting: members of the “Bi-national defense and influence program of the Northern Mexican Border Initiative,” consisting of the *Centro de Derechos Humanos del Migrante A.C.*, *Centro de Recursos Migrantes*, the Network of YMCA Homes for Child Migrants, and the *Coalición Pro Defensa del Migrante A.C.*; representatives of: the *Centro Estratégico de Litigio Latinoamericano A.C.* and the Human Rights Program of the Universidad Veracruzana; the Universidad de Buenos Aires; the Universidad Colegio Mayor de Nuestra Señora del Rosario, Colombia; the Human Rights Center of the Universidad Nacional de Lanús, Argentina; the Human Rights Center of the Jurisprudence Faculty of the Pontificia Universidad Católica del Ecuador; the International Human Rights Law Clinic of Washington College of Law of the American University on behalf of the Women’s Refugee Commission, Kids in Need of Defense and the Immigrant Children’s Legal Program of the U.S. Committee for Refugees & Immigrants; the Child Law Clinic at University College Cork, Ireland, and the Law School of the Universidad Nacional Autónoma de México, as well as Álvaro Francisco Amaya Villarreal and Luis Peraza Parga.

Furthermore, on August 27, 2013, the Oriental Republic of Uruguay submitted a request for an advisory opinion on the “compatibility with the provisions of the American Convention on Human Rights and other international treaties of a draft constitutional amendment that promotes the application of the Criminal Code to adolescents of from 16 to 18 years of age who are declared criminally responsible.” This request is at the stage of preliminary examination by the Court, which has asked the State to clarify some elements of the request.

3.5 Evolution of the Court’s case law

This section highlights some of the developments in the Court’s case law during 2013, as well as some of the opinions that reaffirm the case law already established by the Court.

These case law developments establish standards that are significant when the domestic organs and 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 it is aware that the domestic authorities are subject to the rule of law and, consequently, they are obliged to apply the legal provisions in force. But, 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. In this regard, the Court has established that all the State authorities 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. This refers to the analysis that the State’s organs and agents must make (in particular, the judges and other agents of justice) of the compatibility of domestic norms and practices with the American Convention. In their decisions and specific actions, these organs and agents must comply with the general obligation to ensure the rights and freedoms protected in the American Convention, ensuring that they do not apply domestic legal provisions that violate this treaty, and also that they apply this treaty correctly, as well as the jurisprudential standards developed 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 obligation 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 the criteria for decisions can be harmonized and adapted. Thus, the Court's case law includes examples in which the decisions of domestic courts have been used to found and conceptualize the violation of the Convention in a specific case. At other times, it has been recognized that, in accordance with their international obligations, the domestic organs, instances and courts have adopted satisfactory measures to remedy the situation that originated a case, settled the alleged violation, and 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 development during 2013:

A) MERITS

❖ Right to life (Article 4)

▪ The State's obligation to respect rights in relation to extrajudicial executions perpetrated by a police agent

The Court reiterated that the primary obligation assumed by the States Parties, under Article 1(1) of the Convention, is that of respecting the rights and freedoms recognized in this instrument, which includes the notion of the restriction of the exercise of the State's powers and the obligation to establish an effective system of justice, capable of investigating, punishing and redressing the deprivation of life. In addition, it is a principle of international law that the State's responsibility is based on acts or omissions of any of its powers or organs that violate the Convention, without taking into account their rank or whether they acted within the limits of their competence.⁸²

▪ Protection of human rights defenders and environmentalists

The Court indicated that States are obliged to take all necessary and reasonable measures to ensure the right to life of those persons who are in a situation of special vulnerability, particularly as a result of their work, provided that the State is aware of the situation of real and imminent danger for a specific individual or group of individuals, and based on the realistic possibilities of preventing or avoiding that danger.⁸³

States must facilitate the necessary measures so that human rights defenders or individuals playing a public role regarding which they have been threatened or are at risk, or who have denounced human rights violations may carry out their activities freely; it must protect them when they face threats in order to avoid attempts on their life and integrity; it must create the conditions to eliminate violations by State agents or private individuals, abstain from imposing

⁸² Case of *Gutiérrez and family v. Argentina*. Merits, reparations and costs. Judgment of November 25, 2013. Series C No. 271, para. 76.

⁸³ Case of *Luna López v. Honduras*, *supra*, para. 120.

obstacles that may hinder their work, and conduct a real and effective investigation of any violations committed against them, combating impunity.⁸⁴

▪ **Attribution of responsibility to the State for the acts of private individuals**

The Court reiterated its consistent case law according to which, in specific circumstances, State responsibility may originate from the attribution to the State of acts that violate human rights committed by third parties or private individuals when the State fails to comply, owing to acts or omissions of its agents who are in a position of guarantor, with its obligation to adopt the necessary measures to ensure the effective protection of human rights in relations between individuals contained in Articles 1(1) and 2 of the Convention. It also recalled that this entailed assessing whether the State has adopted the necessary and effective measures of prevention and protection when becoming aware of a situation of real and immediate danger for a specific individual or group of individuals, and the realistic possibilities of preventing or avoiding that danger.⁸⁵

The Court established that the State was internationally responsible for paramilitary raids if the acts were carried out in a context of omission, collaboration or coordination between paramilitary groups and members of law enforcement agencies.⁸⁶ In the case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, the Court was able to verify that the cruel, inhuman and degrading acts to which Marino López was subjected in the village of Bijao, as well as the deprivation of life committed by members of paramilitary groups, could be attributed to the State owing to the acquiescence or collaboration of members of law enforcement agencies with the operations of those groups, which aided their raids of the Cacarica communities and fostered or permitted the perpetration of this type of act.⁸⁷

❖ **Right to life and to personal integrity in relation to the adoption of provisional measures (Articles 4 and 5)**

In then matter of B.,⁸⁸ the Court ordered the protection of the life and personal integrity of a pregnant woman with health problems and an anencephalic fetus.

The Court underscored that the doctors who were treating Ms. B. had concluded that the fact that she was pregnant with a fetus with “anencephalia, a major abnormality, incompatible with life outside the uterus,” could result in risks for her health, and also endangered her mental health.

To the extent possible, inter-American protection should contribute to and be complementary with decisions taken at the domestic level, so that Ms. B. would not be unprotected in relation to the possible harm to her life and personal integrity. Accordingly, the State was obliged to ensure

⁸⁴ Case of *Luna López v. Honduras*, *supra*, para. 123.

⁸⁵ Case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2013. Series C No. 270, para. 224.

⁸⁶ Case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, *supra*, paras. 247 and *ff.*

⁸⁷ Case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, *supra*, para. 281.

⁸⁸ *Matter of B. with regard to El Salvador*. Order of the Inter-American Court of Human Rights of May 29, 2013.

that the medical team treating her had the necessary protection to exercise its functions fully in accordance with the decisions that it adopted based on medical science.⁸⁹

Taking the foregoing into account, the Court ordered the State to adopt and to guarantee, urgently, all necessary and effective measures to ensure that the medical personnel treating Ms. B. could carry out the medical procedures they considered opportune and appropriate, without interference, to ensure the due protection of the rights recognized in Articles 4 and 5 of the American Convention and, in this way, avoid any harm that could become irreparable to the rights to life, to personal integrity, and to health of Ms. B.⁹⁰

❖ **Life sentences imposed on minors in relation to the personal integrity and rights of the child (Article 5 and Article 2 in relation to Articles 7(3) and 19)**

The Court considered that, owing to their very nature, life sentences do not achieve the goal of the social reintegration of children. This type of sentence entails the greatest exclusion of the child from society, so that it is merely retributive, because the expectations of resocialization are totally null. Therefore, these sentences are not proportionate to the purpose of the criminal punishment of children.⁹¹

By allowing elements other than the crime committed to be considered, as well as the possibility of imposing sentences established for adults on children, Argentina's Law No. 22,278 was contrary to the principle of proportionality in the sentencing of children.⁹² The term of 20 years established in article 13 of the national Criminal Code at the time of the facts before children were able to request their release for the first time in order to reintegrate society was evidently disproportionate, because the children were obliged to remain imprisoned for longer than they had lived prior to committing the offenses and the imposing of the sentence.⁹³

❖ **Personal integrity (Article 5)**

▪ **Personal integrity in relation to public and private health services**

The right to personal integrity is directly and immediately linked to health care, and the lack of adequate medical attention can lead to the violation of Article 5(1) of the Convention.⁹⁴ The interdependence and indivisibility that exists between civil and political rights, and economic, social and cultural rights, requires that the latter be understood integrally as human rights, without any differences in rank, and may be required in all cases before those authorities with the relevant competence.⁹⁵

⁸⁹ *Matter of B. with regard to El Salvador, supra*, considering paragraph 15.

⁹⁰ *Matter of B. with regard to El Salvador, supra*, considering paragraph 17.

⁹¹ *Case of Mendoza et al. v. Argentina. Preliminary objections, merits and reparations*. Judgment of May 14, 2013. Series C No. 260, para. 166.

⁹² *Case of Mendoza et al. v. Argentina, supra*, para. 295.

⁹³ *Case of Mendoza et al. v. Argentina, supra*, para. 296.

⁹⁴ *Case of Suárez Peralta v. Ecuador. Preliminary objections, merits, reparations and costs*. Judgment of May 21, 2013. Series C No. 261, para. 130.

⁹⁵ *Case of Suárez Peralta v. Ecuador, supra*, para. 131.

In order to comply with the obligation to ensure the right to personal integrity in the context of health, States must establish an adequate legal framework that regulates the provisions of health services, implementing standards of quality for public and private institutions that allow the prevention of any threat to the violation of personal integrity in the provision of these services. In addition, the State must establish official mechanisms for monitoring and inspecting health care institutions, as well as procedures for the administrative and judicial protection of any victim, the effectiveness of which will depend on the way in which the competent administration implements this.⁹⁶

The State's monitoring obligation encompasses both the services provided by the State directly and indirectly, and those offered by private individuals. Thus, it covers situations in which the service has been delegated and in which private individuals provide it on behalf of, and at the request of, the State, and also the monitoring of private services relating to rights of the greatest social interest, supervision of which is also an obligation of the public authorities.⁹⁷

The Court found that the State's monitoring and supervision should be designed to ensure the principles of availability, accessibility, acceptability and quality of medical services. With regard to the quality of the services, the State has the duty to regulate, supervise and inspect health services, among other aspects, ensuring that the conditions of hygiene and the personnel are satisfactory, that the latter are duly qualified, and remain fit to exercise their profession.⁹⁸

▪ Sexual abuse and rape

The Court reiterated its case law according to which sexual abuse is constituted by acts of a sexual nature that are committed on a person without their consent, and that also include the physical invasion of the human body, and can include acts that do not involve penetration or even any physical contact.⁹⁹ It also reaffirmed that sexual abuse does not necessarily entail a vaginal sexual relation without consent, but may also include acts of vaginal or anal penetration, without the consent of the victim, using other parts of the abuser's body or objects, as well as oral penetration by the male organ.¹⁰⁰ On this occasion, the Court added that, in order for an act to be considered sexual abuse, it was sufficient that penetration occurred, however insignificant, as described above.¹⁰¹ The Court also indicated that it should be understood that vaginal penetration refers to penetration with any part of the abuser's body or objects, of any genital opening, including the inner and outer labia, as well as the vaginal opening.¹⁰² In addition, the Court clarified that rape is a form of sexual abuse.¹⁰³

In addition, sexual abuse is a particular form of violence that, in general, is characterized by occurring in the absence of anyone other than the victim and the abuser or abusers.

⁹⁶ Case of *Suárez Peralta v. Ecuador*, *supra*, para. 132.

⁹⁷ Case of *Suárez Peralta v. Ecuador*, *supra*, para. 149.

⁹⁸ Case of *Suárez Peralta v. Ecuador*, *supra*, para. 152.

⁹⁹ Case of *J. v. Peru. Preliminary objection, merits, reparations and costs*. Judgment of November 27, 2013. Series C No. 275, para. 358.

¹⁰⁰ Case of *J. v. Peru*, *supra*, para. 359.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

Consequently, the existence of graphic or documentary evidence of this type of abuse should not be required, and the victim's testimony is fundamental proof of the act.¹⁰⁴ A presumption of the truth of this type of accusation should be accorded, which may be disproved by a series of procedures, investigations and guarantees that the State can adopt and implement. The legal characterization of the facts that a presumed victim uses in his or her statements must be assessed taking into account the meaning usually given to the words used, which does not necessarily correspond to their legal definition; hence, the relevant point when evaluating a statement is to determine whether the facts described, rather than the legal characterization of them, are consistent as regard the main circumstances.¹⁰⁵

The absence of physical signs does not mean that ill-treatment did not occur, because certain acts of violence against a person frequently do not leave marks or permanent scars.¹⁰⁶ The same is true for cases of sexual abuse and rape, in which their occurrence will not necessarily be revealed by a medical examination, because not all cases of sexual abuse and/or rape cause physical injuries or illnesses that can be verified by a medical examination.¹⁰⁷

❖ **Right to personal liberty in relation to the suspension of guarantees (Articles 7(3) and 27)**

As decided by the Court, the suspension of guarantees constitutes an exceptional situation, under which it is legitimate for a Government to apply certain measures that restrict rights and freedoms that, under normal conditions, are prohibited or subject to more rigorous requirements. Regarding the prohibition of arbitrary detention established in Article 7(3) of the American Convention, international human rights organizations have all expressed the opinion that, as in the case of the right of every person deprived of liberty to appeal to a competent judge or court for a decision on the legality of his or her detention, or *habeas corpus*, the prohibition of arbitrary deprivation of liberty is a non-derogable right that cannot be suspended. The Court found that, in addition, pursuant to its "obligations under international law,"¹⁰⁸ the prohibition of arbitrary detention or imprisonment cannot be suspended during an internal armed conflict.¹⁰⁹

With regard to the imposing of life sentences for the perpetration of offenses during childhood, using the best interests of the child as the interpretative principle aimed at ensuring the maximum respect for the rights of the child, the Court considered that imposing this type of sentence constituted a violation of Article 7(3) of the American Convention, in relation to Articles 19 and 1(1) of this instrument, because it is not an exceptional punishment, it does not entail the deprivation of the child's liberty for the least time possible or for a specific length of

¹⁰⁴ In the cases of *Fernández Ortega et al. and Rosendo Cantú et al.*, the Inter-American Court had already established this criterion with regard to rape, which constitutes a form of sexual abuse. In the case of *J. v. Peru*, the Court considered that "this standard is applicable to sexual abuse in general." Cf. Case of *Fernández Ortega et al. v. Mexico. Preliminary objection, merits, reparations and costs*. Judgment of August 30, 2010. Series C No. 215, para. 100; Case of *Rosendo Cantú et al. v. Mexico. Preliminary objection, merits, reparations and costs*. Judgment of August 31, 2010. Series C No. 216, para. 89, and Case of *J. v. Peru. Preliminary objection, merits, reparations and costs*. Judgment of November 27, 2013. Series C No. 275, para. 323.

¹⁰⁵ *Case of J. v. Peru, supra*, paras. 324 to 326.

¹⁰⁶ *Case of J. v. Peru, supra*, para. 329.

¹⁰⁷ *Ibid.*

¹⁰⁸ Citing Article 27(1) of the American Convention.

¹⁰⁹ Case of *Osorio Rivera and family members v. Peru. Preliminary objections, merits, reparations and costs*. Judgment of November 26, 2013. Series C No. 274, para. 120.

time from the moment of its imposition, and it does not allow the periodical review of the need for the deprivation of liberty of the child.¹¹⁰

❖ **Judicial guarantees and protection (Articles 8 and 25)**

▪ **Judicial guarantees in migrant deportation proceedings**

In view of the special need to protect migrant persons and groups, the Court interpreted and gave content to the rights that the Convention recognizes to them, in keeping with the evolution of the international *corpus juris* applicable to the human rights of migrants.¹¹¹ Regarding the guarantees in proceedings that may lead to the expulsion or deportation of migrants, it indicated that, in certain cases in which the immigration authorities take decision that affect fundamental rights, such as personal liberty, the State cannot take punitive administrative or judicial decisions without respecting certain minimum guarantees, the content of which coincides substantially with those established in Article 8(2) of the Convention, and which are applicable as appropriate.¹¹²

A proceeding that may result in the expulsion or deportation of an alien must be of an individual nature and evaluate the personal circumstances of each individual concerned; it may not discriminate based on nationality, color, race, sex, language, religion, political opinions, social origin or other status, and must observe minimum guarantees.¹¹³

▪ **Judicial guarantees and protection in reparation programs**

The Court established that administrative reparation programs, as well as normative or other types of measures or actions, cannot result in an obstruction to the possibility that victims, in keeping with the rights to judicial guarantees and protection, may file actions to claim reparations.¹¹⁴

▪ **Reasonable time in civil actions**

The Court considered that a duration of more than 15 years in a civil action for damages without any decision having been delivered in first instance exceeded the guarantee of a reasonable time in the processing of judicial proceedings. Before reaching this conclusion, the Court took into account that the parties to the civil action (plaintiffs and defendants) had filed numerous remedies during these proceedings, which had contributed to making the process more complicated and had an impact on prolonging it.¹¹⁵ Nevertheless, the Court emphasized that the said parties were using legal remedies recognized by the applicable law in order to defend their interests in the civil action, which *per se* could not be used against them, but must be

¹¹⁰ Case of *Mendoza et al. v. Argentina*, *supra*, para. 163

¹¹¹ Case of the *Pacheco Tineo family v. Bolivia. Preliminary objections, merits, reparations and costs*. Judgment of November 25, 2013. Series C No. 272, para. 129.

¹¹² Case of the *Pacheco Tineo family v. Bolivia*, *supra*, para. 132.

¹¹³ Case of the *Pacheco Tineo family v. Bolivia*, *supra*, para. 133.

¹¹⁴ Case of *García Lucero et al. v. Chile. Preliminary objections, merits, reparations and costs*. Judgment of August 28, 2013. Series C No. 267, para. 190.

¹¹⁵ Case of *Mémoli v. Argentina. Preliminary objections, merits, reparations and costs*. Judgment of August 22, 2013. Series C No. 265, para. 173.

considered an objective factor that could not be attributed to the State.¹¹⁶ The Court also stressed that the delay in obtaining a final judgment in the action for damages had prolonged excessively the duration of a measure of general prohibition to embargo or dispose of assets imposed on the plaintiffs in the context of this action, with the result that this measure was punitive rather than preventive.¹¹⁷ The Court clarified that the adoption of preventive measures that affect private property does not constitute *per se* a violation of the right to property.¹¹⁸ Nevertheless, the Court established that the right to property is affected disproportionately when domestic judicial authorities fail to take measures to lessen the impact of the duration of a civil action on the ability of the plaintiffs to dispose of their assets owing to the preventive measures imposed,¹¹⁹ so that the violation of the guarantee of a reasonable time would also result in a violation of the right to property.¹²⁰

▪ **Presumption of innocence and declarations on guilt by high-ranking State authorities**

The Court reiterated its case law according to which the right to the presumption of innocence requires that the State should not condemn a person unofficially or make public assertions, thus contributing to forming public opinion, while the criminal responsibility of that person has not been legally proved.¹²¹ On this occasion, the Court concluded that presenting a person to the press as guilty of an offense, when he had not yet been convicted, added to different declarations by high-ranking State authorities that this person was guilty, without the due reservations or clarifications that he had not been tried and sentenced by the courts, constituted a violation of the presumption of innocence.

The presumption of innocence may be violated not only by the judges or courts in charge of the proceedings, but also by other public authorities, so that the State authorities must choose their words carefully when speaking out about a criminal proceeding, before one or several individuals have been tried and found guilty of the respective offense.¹²² The presumption of innocence requires State authorities to be discrete and prudent when making public statements about criminal proceedings.¹²³ There is an evident difference between the statements indicating a suspicion that someone is responsible for a specific crime and those in which it is clearly established, in the absence of a final guilty verdict, that someone is responsible for the crime in question.¹²⁴

It is legitimate and, at times, it is a duty for the State authorities to rule on matters of public interest. However, public officials must be very careful when making public declarations not to infringe the rights of the individual, owing to their high office, the broad scope and eventual impact that their declarations could have on certain sectors of the population, and also to

¹¹⁶ Case of *Mémoli v. Argentina*, *supra*, para. 174.

¹¹⁷ Case of *Mémoli v. Argentina*, *supra*, para. 180.

¹¹⁸ Case of *Mémoli v. Argentina*, *supra*, paras. 178 and 179.

¹¹⁹ Case of *Mémoli v. Argentina*, *supra*, para. 180.

¹²⁰ Case of *Mémoli v. Argentina*, *supra*, para. 183.

¹²¹ Case of *J. v. Peru*, *supra*, para. 235.

¹²² Case of *J. v. Peru*, *supra*, para. 244.

¹²³ *Ibid.*

¹²⁴ Case of *J. v. Peru*, *supra*, para. 246.

ensure that citizens and other interested persons do not receive a manipulated version of certain facts.¹²⁵ The presumption of innocence does not prevent authorities from keeping society adequately informed about criminal investigations, but requires that, when they do so, they ensure the necessary discretion and circumspection to guarantee the presumption of innocence of those possibly involved.¹²⁶

▪ **Guarantee of *non bis in ídem***

The Court established that in order to constitute a violation of Article 8(4) of the American Convention: (i) the accused must have been acquitted; (ii) the acquittal must be the result of a final judgment, and (iii) the new trial must be founded on the same facts that substantiated the first trial.¹²⁷ In addition, the Court determined that the expression “non-appealable judgment” (*sentencia firme*) contained in the American Convention does not always agree with its definition in domestic law. The principle of *non bis in ídem* is not absolute and admits exceptions to the extent that it should not prevent the investigation of gross human rights violations, or be applicable when the purpose of the acquittal is “to remove the accused from his criminal responsibility” or “there was no real intention of submitting the person responsible to the action of justice,” or when the “non-appealable judgment” was delivered in violation of the guarantee of competence, independence and impartiality established in Article 8(1) of the Convention.¹²⁸

▪ **Obligation to investigate allegations of torture**

The Court indicated that, when faced with allegations by those accused of an offense that they have been tortured and/or verification that they had physical injuries when providing their statements, the State has the obligation to investigate the allegations of torture independently of the criminal proceedings being held against such persons. The Court reiterated that it was incumbent on the State to open *ex officio* and immediately an effective investigation into the allegations of torture in accordance with specific protocols and standards. If the facts constitute the crime of torture or other crimes, such as injury, this was not a decision to be taken by the judges in charge of the criminal proceedings against the accused who have alleged that they have been tortured. The Court also repeated its case law on the rule of the exclusion of evidence obtained by torture, cruel and inhuman treatment or coercion that could inhibit the spontaneous expression of the wishes of an individual. The Court insisted that accepting or according probative value to statements or confessions obtained by coercion constituted a violation of the right to a fair trial, and that any torture that may have occurred before the accused has made his or her statement could have an impact when providing this.¹²⁹

❖ **Judicial independence as a subjective right of the judge (Articles 8(1) and 23(1)(c))**

The violation of the guarantee of judicial independence, as it relates to the irremovability and tenure of a judge in office, must be analyzed in light of the treaty-based rights of a judge when this is affected by a State decision that arbitrarily alters the term for which he or she has been

¹²⁵ Case of *J. v. Peru*, *supra*, para. 245.

¹²⁶ Case of *J. v. Peru*, *supra*, para. 247.

¹²⁷ Case of *J. v. Peru*, *supra*, para. 262.

¹²⁸ Case of *J. v. Peru*, *supra*, para. 267.

¹²⁹ Case of *García Cruz and Sánchez Silvestre v. Mexico*. Merits, reparations and costs. Judgment of November 26, 2013. Series C No. 273, paras. 57 and 58.

appointed. Thus, the institutional guarantee of judicial independence is directly related to a right of the judge to remain in office as a result of the guarantee of irremovability in the post.¹³⁰

The Court indicated that the State must guarantee the autonomous exercise of the judicial function in both its institutional aspect: that is in relation to the Judiciary as a system, and also in its individual aspect: that is in relation to the person of the specific judge. The Court found it pertinent to clarify that the objective dimension is related to essential aspects for the rule of law, such as the principle of the separation of powers, and the important role played by the judicial function in a democracy. Accordingly, this objective dimension transcends the office of the judge and has a collective impact on society as a whole. In addition, a direct relationship exists between the objective dimension of judicial independence and the right of judges to have access to and remain in office under general conditions of equality, as an expression of their guarantee of tenure.¹³¹

Consequently, the Court concluded that: (i) respect for judicial guarantees entails respect for judicial independence; (ii) the dimensions of judicial independence include the subjective right of the judge that his or her separation from office should be exclusively for the reasons permitted, either by means of proceedings that comply with judicial guarantees or because the term or period of his or her mandate has expired, and (iii) when the permanence in office of judges is arbitrarily affected, the right to judicial independence established in Article 8(1) of the American Convention is violated in conjunction with the right of access to and permanence in public office under general conditions of equality, established in Article 23(1)(c) of the American Convention.¹³²

❖ Freedom of thought and expression (Article 13)

The Court reiterated its case law in which it has indicated that it did not find that punitive measures in relation to the expression of information or opinions were contrary to the Convention.¹³³ Thus, in the *Mémoli* case, the Court concluded that certain criminal convictions for libel had constituted a valid and legitimate measure under the American Convention to protect the honor and reputation of private individuals, so that they did not constitute a violation of freedom of expression.¹³⁴ To reach this conclusion, the Court took into account, among other reasons, that: (i) the criminal convictions had been imposed based on a norm established in the Argentine legal system; (ii) they had a legitimate purpose that was compatible with the Convention; (iii) the domestic judicial authorities had made a reasonable and sufficient weighing between the right to freedom of expression and the right to honor and reputation of third parties; (iv) the statements made by Messrs. *Mémoli* were not of public interest, and (v) the punishments imposed on Messrs. *Mémoli* were not excessive or evidently disproportionate.¹³⁵ The Court considered that, in this case, the establishment of ulterior responsibilities constituted compliance by the State with the

¹³⁰ Case of the *Supreme Court of Justice (Quintana Coello et al.) v. Ecuador*. Preliminary objection, merits, reparations and costs. Judgment of August 23, 2013. Series C No. 266, para. 153, and Case of the *Constitutional Tribunal (Camba Campos et al.) v. Ecuador*. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2013. Series C No. 268, para. 197.

¹³¹ Case of the *Supreme Court of Justice (Quintana Coello et al.) v. Ecuador*, *supra*, para.154, and Case of the *Constitutional Tribunal (Camba Campos et al.) v. Ecuador*, *supra*, para. 198.

¹³² Case of the *Supreme Court of Justice (Quintana Coello et al.) v. Ecuador*, *supra*, para. 155, and Case of the *Constitutional Tribunal (Camba Campos et al.) v. Ecuador*, *supra*, para. 199.

¹³³ Case of *Mémoli v. Argentina*, *supra*, paras. 126 and 133.

¹³⁴ *Ibid.*

¹³⁵ Case of *Mémoli v. Argentina*, *supra*, paras. 134, 137 to 149.

obligation established in Article 11(3) of the Convention, under which it must protect the individual from abusive attacks on his or her honor and reputation and did not constitute a violation of freedom of expression.¹³⁶

❖ **Protection of the family and rights of the child in relation to asylum proceedings (Articles 17 and 19)**

The Court indicated that the right of children to express their opinions and play a significant role is also important in the context of asylum proceedings, the terms of which may depend on whether the child is the applicant, irrespective of whether he or she is accompanied or alone.¹³⁷

In addition, the Court indicated that when the applicant for refugee status is a child, the principles contained in the Convention on the Rights of the Child must guide all the substantive and procedural aspects of the decision on the child's request for refugee status. Thus, when the applicant is a child, he or she must enjoy specific procedural and probative guarantees in order to ensure that the decisions taken on the request for refugee status are fair, which requires the creation and implementation of appropriate and safe proceedings for children and an environment that creates trust at all stages of the asylum procedure. Also, under the same principle, if the main applicant is excluded from refugee status, the family members have the right to have their own requests evaluated independently.¹³⁸

If an individual requesting asylum receives protection, other members of the family, particularly the children, may receive the same treatment or benefit from recognition of refugee status, based on the principle of family unity. In the proceedings to decide refugee status, the members of the applicant's family may eventually be heard, even if they include children. In each case, the authorities must assess the need to hear them, based on the situation indicated in the application.¹³⁹

Thus, the Court has found that the right to protection of the family and to live in a family, recognized in Article 17 of the Convention, means that the State is obliged not only to establish and execute measures of protection for children directly, but also to promote, as extensively as possible, the development and strengthening of the family unit. Consequently, the separation of children from their family constitutes, in certain circumstances, a violation of the said right, because even legal separations of the child from its family are only admissible if they are duly justified by the best interest of the child, and if they are exceptional and, insofar as possible, temporary.¹⁴⁰

The Court also indicated that the separation of children from their parents may, in certain contexts, jeopardize their survival and development, which must be guaranteed by the State as established in Article 19 of the Convention and in Article 6 of the Convention on the Rights of the Child, especially by protection of the family and non-interference, of an illegal or arbitrary nature, in the family life of children, because the family plays an essential role in their development.

¹³⁶ *Case of Mémoli v. Argentina, supra*, para. 143.

¹³⁷ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 223.

¹³⁸ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 224.

¹³⁹ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 225.

¹⁴⁰ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 226.

Similarly, the Court added that the participation of children acquires special relevance in the case of proceedings that may have a punitive nature, in relation to a violation of the immigration regime, opened against migrant children or against their family, their parents, representatives or those accompanying them, because these types of proceedings may result in the separation of the family and in the subsequent infringement of the wellbeing of the children, regardless of whether the separation occurs in the State that deports them or in the State to which they are deported.¹⁴¹

❖ **Right to freedom of movement and residence**

▪ **Freedom of movement and right to seek and receive asylum in relation to judicial guarantees and the right to judicial protection (Article 22 in relation to Articles 8 and 25)**

The Court indicated that the right to be granted asylum established in Article 22(7) of the American Convention, read in conjunction with Articles 8 and 25 of this instrument, ensures that anyone applying for refugee status is heard by the State with due guarantees during the respective proceedings. Accordingly, given the special regulation of the right to seek and be granted asylum, and in relation to the minimum guarantees of due process that must be safeguarded in migration proceedings, or proceedings related to the application for refugee status or, when appropriate, that may result in the refoulement or deportation of an applicant for refugee status, the State's obligation to respect and ensure the rights recognized in Article 22(7) and 22(8) of the American Convention must be analyzed in relation to the guarantees established in Articles 8 and 25 of this instrument, as appropriate to the administrative or judicial nature of the relevant proceeding in each case.¹⁴²

Owing to the nature of the rights that could be infringed by an erroneous assessment of the danger, or an unfavorable decision, the relevant guarantees of due process are applicable to this type of proceeding, which is usually of an administrative nature. Thus, any proceeding relating to the determination of refugee status of an individual entails an assessment and decision on the possible risk of infringing his or her most basic rights, such as the rights to life, and personal integrity and liberty. Consequently, even if States may establish the proceedings and authorities to implement the right to seek asylum, in application of the principles of non-discrimination and due process, predictable proceedings are required, as well as coherence and objectivity in decision taking at each stage of the proceedings in order to avoid arbitrary decisions.¹⁴³

Hence, the Court considered that, in accordance with the guarantees established in Articles 8, 22(7) and 25 of the Convention, and taking into account UNHCR directives and standards, anyone requesting asylum must have access to proceedings to decide this status that allow a proper examination of the application in keeping with the guarantees contained in the American Convention and in other international instruments that, in cases such as the one examined, entail the following obligations for the States:

- a) They must guarantee the applicant the necessary facilities, including the services of a competent interpreter, as well as, if necessary, access to legal representation and advice to submit the application to the authorities. Thus, the applicant must receive the necessary

¹⁴¹ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 227.

¹⁴² *Case of the Pacheco Tineo family v. Bolivia, supra*, paras. 154 and 155.

¹⁴³ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 157.

guidance regarding the procedure that must be followed, in a language and in a way that he or she can understand and, if appropriate, have the opportunity to communicate with a representative of UNHCR;

- b) The application must be examined objectively, within the framework of the corresponding proceeding, by a competent and clearly identified authority, and requires that a personal interview be held;
- c) The decisions adopted by the competent organs must be expressly and duly founded;
- d) In order to protect the rights of applicants who may be at risk, all stages of the asylum proceeding must respect the protection of the applicant's personal data and application, and the principle of confidentiality;
- e) If the applicant is not granted refugee status, he or she must be informed about how to file an appeal and given a reasonable time to do so, in keeping with the existing system, so that the decision adopted may be reconsidered officially, and
- f) The appeal for review or remedy of appeal must have suspensive effects and must allow the applicant to remain in the country until the competent authority has adopted the respective decision, and even while the legal remedy is pending, unless it is proved that the application is manifestly unfounded.¹⁴⁴

Regardless of the possibility of review, under the right to judicial protection recognized in Article 25 of the American Convention, and in light of the regulations contained in the laws of each State, certain judicial actions or remedies may exist, for example *amparo* or *habeas corpus*, that are rapid, adequate and effective to examine the possible violation of the rights recognized in Article 22(7) and 22(8) of the Convention or in the Constitution and in the laws of each State.¹⁴⁵

▪ Freedom of movement and residence in relation to the principle of non-refoulement (Article 22)

Article 22(8) of the American Convention establishes the prohibition to deport or return an "alien" to "a country, regardless of whether or not it is his country of origin" (in other words, his country of origin or a third State), in which "his life or personal freedom" is "in danger of being violated because of his race, nationality, religion, social status, or political opinions." If these provisions are complemented by the international *corpus juris* applicable to migrants under the inter-American system, the right of any alien, and not only refugees or those seeking asylum, not to be subject to undue refoulement is recognized when their life, safety and/or freedom (and even forms of the right to due process of law) are in danger of being violated, regardless of their legal or migratory status in the country in which they find themselves.¹⁴⁶

When an alien alleges before a State that he or she will be in danger in case of refoulement, the competent authorities of that State must, at the very least, interview the person and make a prior or preliminary evaluation in order to decide whether this danger exists in case of deportation. This entails respecting the said minimum guarantees as part of the adequate opportunity to explain the reasons why he or she should not be deported and, if that danger is

¹⁴⁴ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 159.

¹⁴⁵ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 160.

¹⁴⁶ *Case of the Pacheco Tineo family v. Bolivia, supra*, paras. 134 and 135.

verified, the person may never be subject to refoulement to his or her country of origin or to the country where the danger exists.¹⁴⁷

In addition, the Court recalled that, under the inter-American system, the principle of non-refoulement has a broader meaning and scope and, in light of the complementarity that exists in the application of international refugee law and international human rights law, the prohibition of refoulement constitutes both the cornerstone of the international protection of refugees, asylees and asylum seekers. This principle is also a customary norm of international law and is enhanced in the inter-American system by the recognition of the right to seek and be granted asylum. Thus, such persons are protected against refoulement as a specific measure of asylum under Article 22(8) of the Convention, regardless of their legal or migratory status in the State in question, and as an integral component of the international protection of refugees under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, article 33(1) of which establishes that “[n]o Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”¹⁴⁸

The Court also indicated that the foregoing necessarily means that such persons cannot be turned back at the border or deported without an adequate and individualized analysis of their applications. Thus, before returning anyone, States must ensure that the person seeking asylum is able to access the appropriate international protection, by means of fair and efficient asylum proceedings, in the country to which he or she would be deported. States also have the obligation not to return or deport anyone who seeks asylum to a country where there is a possibility that he or she may be in danger of persecution or to one from where he may be returned to the country where he may be in that danger (the so-called “indirect refoulement”).¹⁴⁹

B) REPARATIONS

❖ Reparations and the principle of complementarity

The Court indicated that, even though international law establishes the individual ownership of the right to reparation, in scenarios of transitional justice in which States must assume their obligation to make reparation massively to numerous victims, which amply exceeds the capacities and possibilities of domestic courts, administrative reparation programs are a legitimate way to fulfill the right to reparation. It added that, in these circumstances, such measures of reparation must be understood in conjunction with other measures of truth and justice, provided that a series of requirements are met relating, among other matters, to their legitimacy – especially, based on the consultation with and participation of the victims; their adoption in good faith; the level of social inclusion they permit; the reasonableness and proportionality of the pecuniary measures; the type of reasons given to make reparations by family group and not individually; the distribution criteria among members of a family (order of succession or percentages); parameters for a fair distribution that take into account the position

¹⁴⁷ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 136.

¹⁴⁸ *Case of the Pacheco Tineo family v. Bolivia, supra*, paras. 151 and 152.

¹⁴⁹ *Case of the Pacheco Tineo family v. Bolivia, supra*, para. 153.

of women among the members of the family, or other differentiated factors such as whether collective ownership of the land or other means of production exist.¹⁵⁰

Similarly, the Court also underlined the importance of the principle of complementarity of international law, recognized in the preamble to the American Convention, which the Court has also taken into account in other cases, when pertinent, in order to recognize the compensation awarded at the domestic level and to abstain from ordering reparations in this regard.¹⁵¹

❖ **Guarantees of non-repetition**

In the case of *Mendoza et al. v. Argentina*, the Court ordered as guarantees of non-repetition that the State: (i) adapt its legal framework to the international standards indicated in the judgment on juvenile criminal justice, and design and implement public policies on the prevention of juvenile delinquency through effective programs and service that encouraged the integral development of children and adolescents; (ii) ensure that it never again imposes imprisonment or life imprisonment on those who have committed offenses while minors, and guarantee that the individuals who are currently serving such sentences for offenses committed while underage can obtain a review of these sentences that is adapted to the standards indicated in the judgment; (iii) amend its domestic laws in order to guarantee the right to appeal a judgment before a higher court, and (iv) implement, within a reasonable time, if it does not exist already, compulsory programs or courses on the principles and norms for the protection of human rights and the rights of the child, including those relating to humane treatment and torture, as part of the general and continuing training of federal prison personnel and that of the province of Mendoza, as well as of judges with competence over offenses committed by children.¹⁵²

Also in the case of *Luna López v. Honduras*, the Court asked the State, as a guarantee of non-repetition, to present an annual report indicating the measures taken to implement, within a reasonable time, an effective public policy to protect human rights defenders, particularly defenders of the environment.¹⁵³

¹⁵⁰ Case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, *supra*, para. 470.

¹⁵¹ Case of the *Afrodescendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, *supra*, para. 474.

¹⁵² Case of *Mendoza et al. v. Argentina*, *supra*, operative paragraphs 20 to 23.

¹⁵³ Case of *Luna López v. Honduras. Merits, reparations and costs*, *supra*, operative paragraph 10.

IV. CURRENT STATUS OF MATTERS BEING PROCESSED BEFORE THE COURT

4.1 Contentious cases being examined

At the present time, the Court has 21 cases pending a decision:

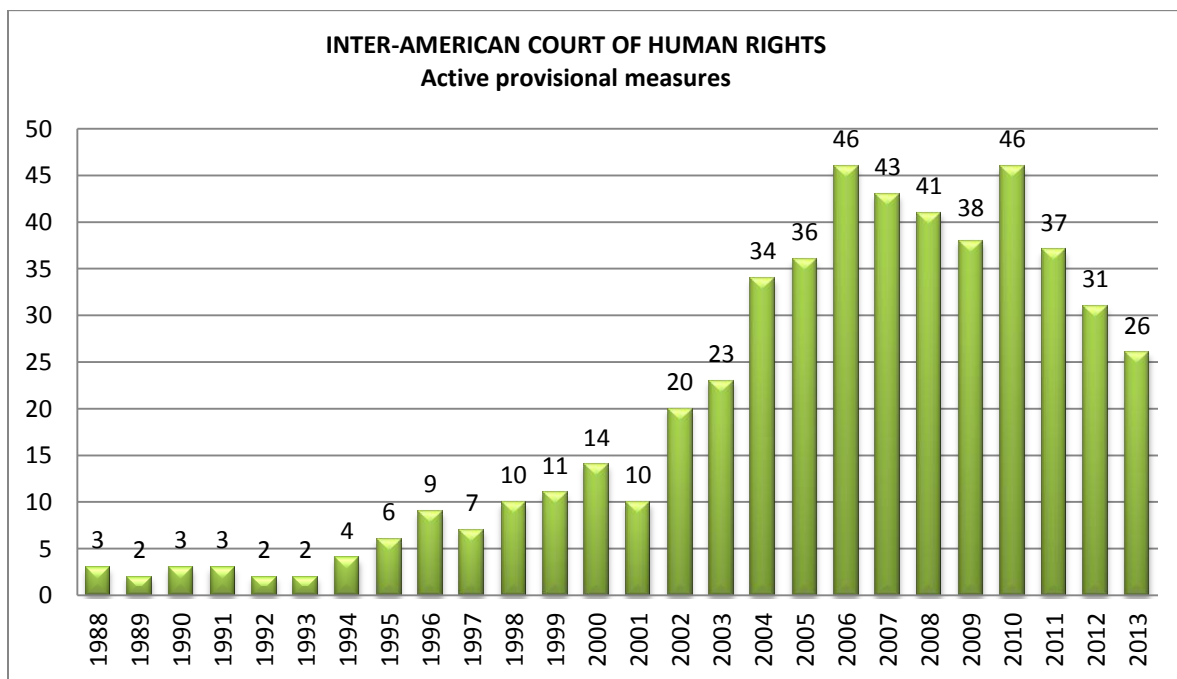
1	Case of Norín Catrimán <i>et al.</i> (Lonkos, leaders and activists of the Mapuche indigenous people) <i>v.</i> Chile	07-08-2011
2	Case of Gladys Carol Espinoza Gonzáles <i>v.</i> Peru	08-12-2011
3	Case of Eduardo Nicolás Cruz Sánchez <i>et al.</i> (Operation Chavín de Huántar) <i>v.</i> Peru	13-12-2011
4	Case of Rodríguez Vera <i>et al.</i> <i>v.</i> Colombia	09-02-2012
5	Case of Brewer Carías <i>v.</i> Venezuela	07-03-2012
6	Case of Hugo Oscar Arguelles <i>et al.</i> <i>v.</i> Argentina	29-05-2012
7	Case of Véliz Franco <i>v.</i> Guatemala	03-05-2012
8	Case of the Landaeta Mejías brothers <i>et al.</i> <i>v.</i> Venezuela	10-07-2012
9	Case of Tide Méndez <i>v.</i> Dominican Republic	12-07-2012
10	Case of Liakat Ali Alibux <i>v.</i> Suriname	20-01-2012
11	Case of Gudiel Ramos <i>et al.</i> <i>v.</i> Guatemala	17-07-2012
12	Case of the Triunfo de la Cruz Garífuna Community and its members <i>v.</i> Honduras	21-02-2013
13	Case of the Kuna Indigenous People of Madungandi and the Emberá Indigenous People of Bayano and their members <i>v.</i> Panama	26-02-2013
14	Case of Marcel Granier <i>et al.</i> <i>v.</i> Venezuela	28-02-2013
15	Case of Rochac Hernández <i>et al.</i> <i>v.</i> El Salvador	21-03-2013
16	Case of Zulema Tarazona Arrieta <i>et al.</i> <i>v.</i> Peru	03-06-2013
17	Case of the Santa Bárbara Peasant Community <i>v.</i> Peru	08-07-2013
18	Case of the Punta Piedra Garífuna Community and its members <i>v.</i> Honduras	01-10-2013
19	Case of Wong Ho Wing <i>v.</i> Peru	30-10-2013
20	Case of García Ibarra and family <i>v.</i> Ecuador	23-11-2013
21	Case of Canales Huapaya <i>et al.</i> <i>v.</i> Peru	05-12-2013

4.2 Current status of the provisional measures

At the present time, the following 26 provisional measures are being monitored by the Court:

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	Almanza <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, their son Anthony Alberto Bolívar Sánchez and their daughter Andrea Antonela Bolívar Sánchez.	Venezuela
8	Bámaca Velásquez <i>et al.</i>	Guatemala
9	San José de Apartadó Peace Community	Colombia
10	Barrios family <i>et al.</i>	Venezuela
11	“Globovisión” television station	Venezuela
12	Fernández Ortega <i>et al.</i>	Mexico
13	Forensic Anthropology Foundation of Guatemala	Guatemala
14	Giraldo Cardona <i>et al.</i>	Colombia
15	Gladys Lanza Ochoa	Honduras
16	Gloria Giralt de García Prieto <i>et al.</i>	El Salvador

17	Helen Mack <i>et al.</i>	Guatemala
18	José Luis Galdámez Álvarez <i>et al.</i>	Honduras
19	Luis Uzcátegui <i>et al.</i>	Venezuela
20	Luisiana Ríos <i>et al.</i> (RCTV)	Venezuela
21	La Rochela Massacre	Colombia
22	Mery Naranjo <i>et al.</i>	Colombia
23	Rosendo Cantú <i>et al.</i>	Mexico
24	Socio-educational Internment Facility	Brazil
25	Wong Ho Wing	Peru
26	Castro Rodríguez	Mexico



4.3 Actual status of the monitoring of compliance with judgments

The Court ended 2013 with 148 contentious cases at the stage of monitoring compliance with judgment. However, this does not mean that there has been no compliance with these judgments. To the contrary, in most of them a significant part of the reparations ordered have been fulfilled or are being fulfilled. In this regard, it should be borne in mind that, owing to the complex nature of some of the reparations ordered by the Court – for example, judicial investigations, the promulgation or amendment of legal norms, structural changes, or health services – the Court must keep the stage of monitoring compliance open for longer than in the case of other types of reparation the implementation of which is less complex. This is why the Court continues to monitor cases until it considers that the judgment has been complied with fully, even though, in many cases, most of the measures of reparation have already been fulfilled.

That said, it should be highlighted that, in 2013, three cases were concluded: *Castañeda Gutman v. Mexico*,¹⁵⁴ *Abril Alosilla et al. v. Peru*,¹⁵⁵ and *Kimel v. Argentina*.¹⁵⁶

At the present time, the Court is monitoring compliance with judgment in the following cases:

	Name	Respondent State
1	Case of the 19 Tradesmen	Colombia
2	Case of Acevedo Buendía <i>et al.</i> (“Dismissed and Retired Employees of the Comptroller’s Office”)	Peru
3	Case of Acevedo Jaramillo <i>et al.</i>	Peru
4	Case of Albán Cornejo <i>et al.</i>	Ecuador
5	Case of Almonacid Arellano <i>et al.</i>	Chile
6	Case of Anzualdo Castro	Peru
7	Case of Apitz Barbera <i>et al.</i> (“First Contentious Administrative Court”)	Venezuela
8	Case of Artavia Murillo <i>et al.</i> (<i>In vitro</i> fertilization)	Costa Rica
9	Case of Atala Riffo and daughters	Chile
10	Case of Baena Ricardo <i>et al.</i>	Panama

¹⁵⁴ Case of *Castañeda Gutman v. Mexico*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 28, 2013.

¹⁵⁵ Case of *Abril Alosilla et al. v. Peru*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 22, 2013.

¹⁵⁶ Case of *Kimel v. Argentina*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 5, 2013.

11	Case of Baldeón García	Peru
12	Case of Bámaca Velásquez	Guatemala
13	Case of Barbani Duarte	Uruguay
14	Case of Barreto Leiva	Venezuela
15	Case of Barrios Altos	Peru
16	Case of Bayarri	Argentina
17	Case of Blake	Guatemala
18	Case of Blanco Romero <i>et al.</i>	Venezuela
19	Case of Benavides Ceballos	Ecuador
20	Case of Boyce <i>et al.</i>	Barbados
21	Case of Bueno Alves	Argentina
22	Case of Bulacio	Argentina
23	Case of Caballero Delgado and Santana	Colombia
24	Case of Cabrera García and Montiel Flores	Mexico
25	Case of Caesar	Trinidad and Tobago
26	Case of Cantoral Benavides	Peru
27	Case of Cantoral Huamaní and García Santa Cruz	Peru
28	Case of Cantos	Argentina
29	Case of Carpio Nicolle <i>et al.</i>	Guatemala
30	Case of Castillo Páez	Peru
31	Case of Castillo Petrucci <i>et al.</i>	Peru
32	Case of Cesti Hurtado	Peru
33	Case of Chaparro Álvarez and Lapo Íñiguez	Ecuador
34	Case of Chitay Nech <i>et al.</i>	Guatemala
35	Case of Chocrón Chocrón	Venezuela
36	Case of the “Five Pensioners”	Peru
37	Case of the Sawhoyamaya Indigenous Community	Paraguay
38	Case of the Xákmok Kásek Indigenous Community	Paraguay

39	Case of the Yakye Axa Indigenous Community	Paraguay
40	Case of Contreras <i>et al.</i>	El Salvador
41	Case of DaCosta Cadogan	Barbados
42	Case of the “Mapiripán Massacre”	Colombia
43	Case of the “White Van” (Paniagua Morales <i>et al.</i>)	Guatemala
44	Case of the Moiwana Community	Suriname
45	Case of the Supreme Court of Justice (Quintana Coello <i>et al.</i>)	Ecuador
46	Case of de la Cruz Flores	Peru
47	Case of the La Rochela Massacre	Colombia
48	Case of the Las Dos Erres Massacre	Guatemala
49	Case of the Pueblo Bello Massacre	Colombia
50	Case of the Afrodescendant Communities displaced from the Cacarica River basin (Operation Genesis)	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 the Gómez Paquiyauri Brothers	Peru
56	Case of El Caracazo	Venezuela
57	Case of the Miguel Castro Castro Prison	Peru
58	Case of the Saramaka People	Suriname
59	Case of the Constitutional Court	Peru
60	Case of the Constitutional Tribunal (Camba Campos <i>et al.</i>)	Ecuador
61	Case of Díaz Peña	Venezuela
62	Case of Durand and Ugarte	Peru
63	Case of El Amparo	Venezuela
64	Case of Escué Zapata	Colombia
65	Case of the Barrios family	Venezuela
66	Case of the Pacheco Tineo family	Bolivia

67	Case of Fermín Ramírez	Guatemala
68	Case of Fernández Ortega <i>et al.</i>	Mexico
69	Case of Fleury <i>et al.</i>	Haiti
70	Case of Fontececchia and D'Amico	Argentina
71	Case of Fornerón and daughter	Argentina
72	Case of Furlan and family members	Argentina
73	Case of García Asto and Ramírez Rojas	Peru
74	Case of García Cruz and Sánchez Silvestre	Mexico
75	Case of García Lucero <i>et al.</i>	Chile
76	Case of García Prieto <i>et al.</i>	El Salvador
77	Case of García and family members	Guatemala
78	Case of Garibaldi	Brazil
79	Case of Garrido and Baigorria	Argentina
80	Case of Gelman	Uruguay
81	Case of Goiburú <i>et al.</i>	Paraguay
82	Case of Gomes Lund <i>et al.</i> (" <i>Guerrilha do Araguaia</i> ")	Brazil
83	Case of Gómez Palomino	Peru
84	Case of González <i>et al.</i> (" <i>Cotton Field</i> ")	Mexico
85	Case of González Medina and family members	Dominican Republic
86	Case of Gudiel Álvarez <i>et al.</i> (" <i>Diario Militar</i> ")	Guatemala
87	Case of Gutiérrez Soler	Colombia
88	Case of Gutiérrez and family	Argentina
89	Case of Heliodoro Portugal	Panama
90	Case of Hilaire, Constantine, Benjamin <i>et al.</i>	Trinidad and Tobago
91	Case of Huilca Tecse	Peru
92	Case of Ibsen Cárdenas and Ibsen Peña	Bolivia
93	Case of the Children's Rehabilitation Institute	Paraguay
94	Case of Ivcher Bronstein	Peru

95	Case of J.	Peru
96	Case of Juan Humberto Sánchez	Honduras
97	Case of Kawas Fernández	Honduras
98	Case of La Cantuta	Peru
99	Case of Las Palmeras	Colombia
100	Case of Loayza Tamayo	Peru
101	Case of López Álvarez	Honduras
102	Case of López Mendoza	Venezuela
103	Case of Luna López	Honduras
104	Case of Manuel Cepeda Vargas	Colombia
105	Case of Maritza Urrutia	Guatemala
106	Case of the Santo Domingo Massacre	Colombia
107	Case of the Plan de Sánchez Massacre	Guatemala
108	Case of the Massacres of El Mozote and nearby places	El Salvador
109	Case of the Río Negro Massacres	Guatemala
110	Case of Mémoli	Argentina
111	Case of Mendoza <i>et al.</i>	Argentina
112	Case of Mohamed	Argentina
113	Case of Molina Thiessen	Guatemala
114	Case of Montero Aranguren <i>et al.</i> (Retén de Catia)	Venezuela
115	Case of Myrna Mack Chang	Guatemala
116	Case of Nadege Dorzema <i>et al.</i>	Dominican Republic
117	Case of Neira Alegría <i>et al.</i>	Peru
118	Case of Osorio Rivera and family members	Peru
119	Case of Pacheco Teruel <i>et al.</i>	Honduras
120	Case of Palamara Iribarne	Chile
121	Case of Perozo <i>et al.</i>	Venezuela
122	Case of the Kichwa Indigenous People of Sarayaku	Ecuador

123	Case of Radilla Pacheco	Mexico
124	Case of Raxcacó Reyes	Guatemala
125	Case of Reverón Trujillo	Venezuela
126	Case of Ríos <i>et al.</i>	Venezuela
127	Case of Rosendo Cantú <i>et al.</i>	Mexico
128	Case of Salvador Chiriboga	Ecuador
129	Case of Servellón García <i>et al.</i>	Honduras
130	Case of Suárez Peralta	Ecuador
131	Case of Suárez Rosero	Ecuador
132	Case of Tibi	Ecuador
133	Case of Ticona Estrada <i>et al.</i>	Bolivia
134	Case of Tiu Tojín	Guatemala
135	Case of Torres Millacura <i>et al.</i>	Argentina
136	Case of the Dismissed Congressional Employees (Aguado Alfaro <i>et al.</i>)	Peru
137	Case of Trujillo Oroza	Bolivia
138	Case of Uzcátegui <i>et al.</i>	Venezuela
139	Case of Usón Ramírez	Venezuela
140	Case of Valle Jaramillo <i>et al.</i>	Colombia
141	Case of Vargas Areco	Paraguay
142	Case of Vélez Loor	Panama
143	Case of Vélez Restrepo	Colombia
144	Case of Vera Vera <i>et al.</i>	Ecuador
145	Case of Ximenes Lopes	Brazil
146	Case of Yatama	Nicaragua
147	Case of Yvon Neptune	Haiti
148	Case of Zambrano Vélez <i>et al.</i>	Ecuador

4.4 Advisory opinions being examined

As indicated in section 3.4, the Court still has to rule on the request for an advisory opinion on migrant children presented by several MERCOSUR States¹⁵⁷ on July 7, 2011.

¹⁵⁷ The Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay.

V. BUDGET

5.1 Income

The total income received by the Court for its operations during the 2013 accounting exercise was US\$5,301,567.47. This income came from regular and special resources.

A) REGULAR INCOME

The regular income from the OAS Budget approved by the respective General Assembly for 2013, destined for the regular fund of the Inter-American Court of Human Rights, amounted to US\$2,661,000.00. This supposed an increase of 23.14% in relation to the regular resources approved for 2012. Nevertheless, this amount was reduced *ex officio* by the OAS General Secretariat in order to cover its own unscheduled budgetary shortfalls. The final amount allocated for 2013 was US\$2,581,170.00.¹⁵⁸

It should be noted that the amount provided by OAS represents only 48.69% of the Court's income, while the remainder is provided by special resources.

B) SPECIAL INCOME

Special funds are provided by voluntary contributions from States, international cooperation, and various other agencies.

During 2013, the Court received for its operations voluntary contributions amounting to US\$2,720,397.47, from the following States and agencies:

- Government of Costa Rica, under the headquarters agreement: US\$105,185.24
- Government of Chile, through the Permanent Mission to the OAS: US\$49,900.00
- Government of Colombia, through the Permanent Mission to the OAS: US\$20,000.00
- Government of Mexico, through the Permanent Mission to the OAS: US\$275,000.00
- UNHCR (United Nations High Commissioner for Refugees): US\$18,500.00
- Universidad de Santa Clara: US\$1,600.00.

The funds from the following international cooperation projects should be added to the above:

¹⁵⁸ See "Program – Budget of the Organization", approved by the General Assembly during the forty-third special session, November 2013, AG/RES.1 (XLIII-E/12), available at <http://www.oea.org/presupuesto/>. According to a note of the OAS Secretary General to the Secretaries, Executive Secretaries and other Offices, dated September 5, 2013, concerning the adjustments to the appropriations from the Regular Fund for 2013, the budget allocated to the Inter-American Court of Human Rights for the year was reduced by US\$79,830.00.

- Spanish International Development Cooperation Agency (AECID):

Project "Strengthening the monitoring of the implementation of non-pecuniary reparations and provisional measures ordered by the Inter-American Court of Human Rights" (CDH 110), for the sum of US\$120,000.00.

Project "Strengthening the capacities of the Inter-American Court to evaluate the existence of and status of compliance with provisional measures and to decide particularly complex contentious cases" (CDH - 1302), for the sum of US\$210,000.00.

- Norwegian Ministry of Foreign Affairs

Project "Strengthening the judicial capacities of the Inter-American Court of Human Rights and the dissemination of its work 2013-2015," Program CAM 2665, CAM 12/0005, for US\$1,082,923.79 corresponding to the 2013 budget, deposited as follows: US\$482,541.09 in December 2012, US\$336,155.96 in July 2013, and US\$264,226.74 in November 2013. For the 2014 budget, US\$342,259.34 was received in November 2013.

- USAID/Chemonics Colombia

Project "Strengthening and disseminating the work of the Inter-American Court of Human Rights in Colombia," for the sum of US\$139,414.00.

- Government of the Kingdom of Denmark

Regional Human Rights Program in Central America, Pro-Derechos 2013-2015, for the sum of US\$651,381.62.

- National Justice Secretariat of the Ministry of Justice of Brazil

Cooperation project between the Committee of the National Secretariat of the Ministry of Justice of Brazil and the Inter-American Court of Human Rights on strengthening the dissemination of the case law of the IACtHR in Portuguese for Brazilian agents of justice 2013-2014, for US\$20,000.00.

- Embassy of France in Costa Rica

Agreement between the Embassy of France in Costa Rica and the Inter-American Court of Human Rights for the sum of US\$26,492.82 (¢13,060,959.00).

- Technical Assistance Cooperation Agreement with France and Germany

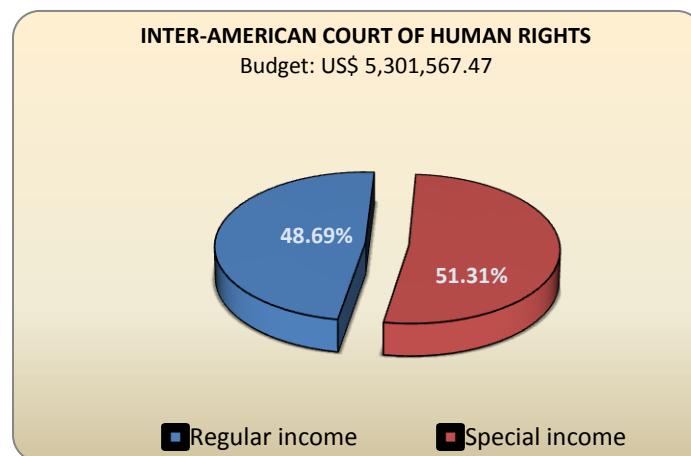
The States of France and Germany provides technical assistance to the Court in 2013 by assigning a French judge and a German lawyer to work at the Court's Secretariat.

- Cooperation agreement with Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ)

On September 3, 2013, the Court signed a "Memorandum of understanding" with Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) on joint efforts in the context of

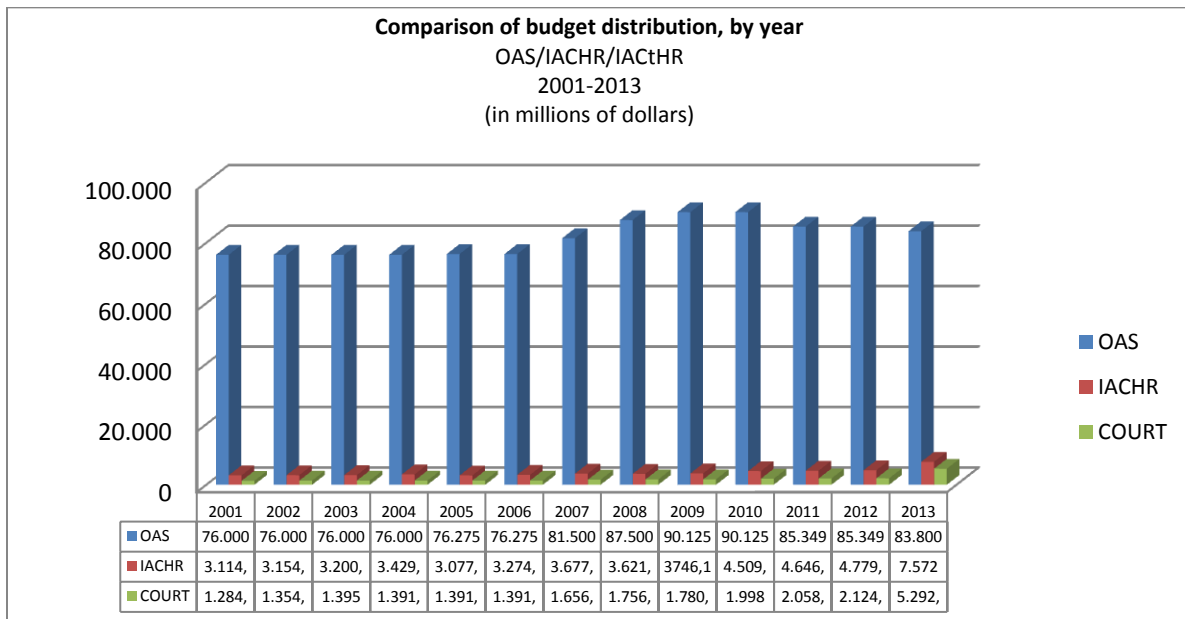
the program “Derecho Internacional Regional y acceso a la Justicia en América Latina” (DIRAJus) [Regional international law and access to justice in Latin America]. This agreement is designed “to support the strengthening of access to justice in keeping with the Charter of the Organization of American States (OAS), the Democratic Charter, the American Convention on Human Rights, the declarations of the Summits of the Americas and the action plans (including the 2001 Quebec City Plan of Action). The agreement includes the assignment of a German lawyer/consultant, whose functions will focus on carrying out research on access to justice, and it is accompanied by a financial contribution of 350,000 euros, which will be received over the 2014-2015 biennium.

A major part of the Court’s expenses is covered by voluntary contributions, rather than by the regular OAS resources; so much so that, currently, voluntary contributions and international cooperation finance 51.313% of the Court’s activities. Consequently, year after year, the Court is compelled to conduct a complex and exhausting search for the funding that is essential for its normal operations.



The Court observes these data with concern because this anomalous situation could jeopardize its institutional and budgetary stability, if it has to depend not only on the willingness, but also on the eventual financial possibilities of States, some of which are not members of the inter-American human rights system. In the absence of these voluntary contributions, the Inter-American Court would inevitably have to drastically reduce its jurisdictional activities, undermining irreversibly the protection of human rights in the Americas.

Accordingly, the Court emphasizes the importance that most of the Court’s funding should come from the OAS Budget, encouraging and urging the OAS Member States to consider the possibility of increasing the amount of the regular resources allocated to this institution.



5.2 Budget from the Regular Fund approved for 2014

During its forty-fifth special session, held in Washington, D.C., on November 15, 2013, the OAS General Assembly approved a budgetary envelope for the Court of US\$2,661,000.00 for 2014.¹⁵⁹ This is exactly the same amount that was approved for 2013. No reduction in this sum has been announced.

5.3 Proposal to reinforce the financial resources of the Inter-American Court (2011-2015)

The implementation of an efficient financial structure is essential to ensure the smooth operation of the Court and, in general, the inter-American human rights system. This is only possible by ensuring a solid and harmonious financing for the three areas of the Court, namely:

- (a) the collegiate body and its members;
- (b) the legal area, and
- (c) the administrative and operational area.

Consequently, on June 8, 2011, following the OAS General Assembly held in San Salvador, El Salvador, the Court called for a working meeting of the OAS Member States, Permanent

¹⁵⁹ See "Program – Budget of the Organization", approved by the General Assembly during the forty-fifth special session, October 2013, AG/RES.1 (XLV-E/13), available at: <http://www.oea.org/presupuesto/>

Observers, and different cooperation agencies in order to present its “Guidelines 2011-2015: Strengthening inter-American justice by predictable and harmonious financing.” These guidelines constitute a strategic plan to be implemented over the period 2011 to 2015 in order to reinforce the Inter-American Court of Human Rights and enable it to embark on sustainable growth, based on the considerable responsibility entailed by administering inter-American justice and the constant increase in the Court’s workload. To this end, the intention is to strengthen the said areas into which the Court’s operations are divided.

Thus, first, it is proposed that the increase in financial resources be aimed at increasing the number of sessions and the gradual achievement of the full-time dedication of the judges to jurisdictional functions. Second, in order to reinforce the legal area, the document proposes to increase the budgetary envelope devoted to this area in order (i) to permit the growth of the legal area, and (ii) to be able to offer those working in this area the opportunity to develop an attractive judicial career. Lastly, the said guidelines also include the actual need of the Court to strengthen its operational and administrative capacity, so that new resources are allocated to covering the expenses of translation, operational costs, maintenance of the facilities, equipment requirements, and salary increases for the Court’s staff.

The document is available at the following link:

<http://scm.oas.org/pdfs/2011/CP27341S1.pdf>

5.4 Audit of the financial statements

During 2013, an audit was conducted of the Inter-American Court’s financial statements for the 2012 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 (*infra* 6.1.d).

The financial statements are prepared by the administrative unit of the Inter-American Court and the audit was made in order to obtain an opinion confirming the validity of the Court’s financial transactions, taking into account generally accepted international accounting and auditing principles.

According to the March 8, 2013, report of *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 2012, 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 adequate 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 Secretary General, the OAS Financial Services Department and to that Organization’s Inspector General.

VI. MECHANISMS TO PROMOTE ACCESS TO INTER-AMERICAN JUSTICE: VICTIMS' LEGAL ASSISTANCE FUND (FAV) AND INTER-AMERICAN DEFENDER (DPI)

In 2010, the Court incorporated into its Rules of Procedure two new mechanisms designed to enable victims to access inter-American justice, and to ensure that those who lack sufficient financial resources or who do not have legal representative are not excluded from access to the Inter-American Court. These mechanisms are: the Victims' Legal Assistance Fund and the Inter-American Defender.

6.1 Victims' Legal Assistance Fund

A) PROCEDURE

On February 4, 2010, the Court's Rules were issued for the Operation of the Victims' Legal Assistance Fund (hereinafter, "the Fund") and they entered into force on June 1, 2010. The purpose of 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. Once the presumed victim proves that he or she does not have sufficient financial resources, the Court may decide to approve, by means of an Order, disbursement to cover the expenses arising from the proceedings.

In some cases, the respondent State must reimburse the said amounts, because, in keeping with the provisions of the Rules, when delivering judgment, the Court is empowered to order the respondent State to reimburse the Fund the disbursements made during the processing of the respective case.¹⁶⁰

Once their case has been submitted to the Court, any victim who does not have the necessary financial resources to cover the expenses resulting from proceedings may expressly request access to the Fund. According to the Rules, the presumed victims who wish to avail themselves of the Fund must 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, that they lack sufficient financial resources to cover the costs of litigation before the Court and indicate precisely which aspects of their participation require the use of resources from the Fund.¹⁶¹ The President is responsible for evaluating each

¹⁶⁰ Cf. The Court's Rules for the Operation of the Fund, article 5.

¹⁶¹ *Ibid.*, article 2.

application to determine whether or not it is admissible, and will indicate which aspects of the participation can be covered by the Victims' Legal Assistance Fund.¹⁶²

The Court's Secretariat is in charge of administering the Fund. When 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 specific case, in which it records each disbursement made, in accordance with the parameters authorized by the President. Subsequently, the Court's Secretariat informs the respondent 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. As indicated above, when delivering judgment, the Court will assess the admissibility of ordering the respondent State to reimburse the Fund any disbursement made and will indicate the amount owed.

B) DONATIONS TO THE FUND

It should be underlined that this Fund does not receive resources from the regular budget of the OAS. This has led the Court to seek voluntary contributions to ensure its existence and operation. To date, the funds have come from several cooperation projects and from voluntary contributions from States.

Initially, the funds only came from a cooperation Project signed with Norway for the period 2010-2012, which provided US\$210,000.00 to the Legal Assistance Fund, and from the donation of US\$25,000.00 made to the Fund by Colombia. During 2012, owing to new cooperation agreements signed with Norway and Denmark, the Court obtained commitments for additional funding of US\$180,000.00 and US\$120,000.00, respectively, to allocate to the operation of the Victims' Legal Assistance Fund for 2013 to 2015. Thus, for the execution of the 2013 budget, the Fund received US\$60,000.00 from Norway and US\$60,000.00 from Denmark.

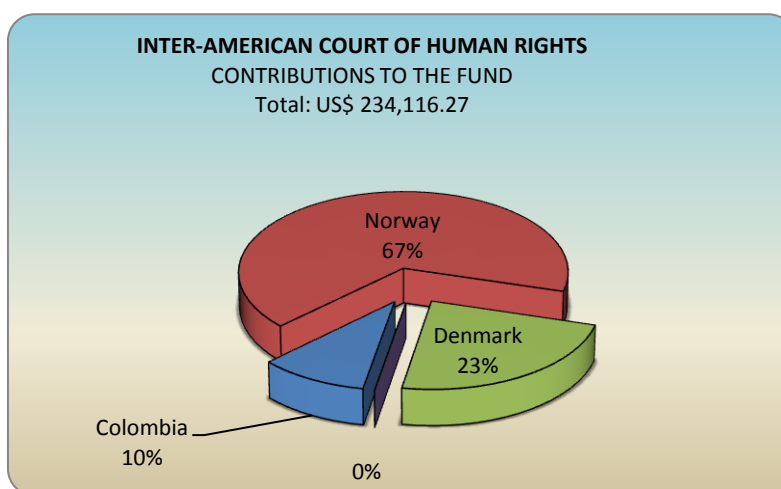
Based on the foregoing, at December 2013, total contributions to the fund amounted to US\$355,000.00.

The list of donor countries to date is as follows:

	State	Year	Contribution	Spent	Remaining at December 2013
1	Norway	2010-2012	US\$ 210,000.00	(US\$83,412.89)	US\$126,587.11
2	Colombia	2012	US\$ 25,000.00	(US\$1,445.15)	US\$23,554.85
3	Norway	2013	US\$ 60,000.00	(US\$30,363.94)	US\$29,636.06
4	Denmark	2013	US\$ 60,000.00	(US\$5,661.75)	US\$54,338.25

¹⁶² *Ibid.*, article 3.

SUB TOTAL		US\$ 355,000.00	(US\$120,883.73)	US\$234,116.27
5	Income to be reimbursed by the States	Kichwa Indigenous People of Sarayaku v. Ecuador US\$ 6,344.62 Contreras <i>et al.</i> v. El Salvador US\$ 4,131.51 Massacres of El Mozote and nearby places v. El Salvador US\$ 6,034.36 Suárez Peralta v. Ecuador US\$ 1,436.00		
6	Interest earned	Bank deposits	US\$ 910.76	
7	Administrative and financial expenses, and auditing	Bank commission and audit		(US\$ 1,519.29)
8	Expenditure non-reimbursable by the States	Not included in the judgment		(US\$5,256.00)
SUB TOTAL		US\$ 18,857.25	(US\$6,775.29)	US\$12,081.96
TOTAL		US\$ 373,857.25	(US\$127,659.02)	US\$246,198.23



C) EXPENSES INCURRED BY THE FUND

c.1) Expenditure approved in 2013

Durante 2013, the President of the Inter-American Court of Human Rights issued the following orders approving access to the Fund with regard to these cases:

	Case	Order ¹⁶³	Items covered
1	Case of Véliz Franco v. Guatemala	January 8, 2013	Presentation of a maximum of four statements
2	Case of the Landaeta Mejías brothers <i>et al.</i> v. Venezuela	February 13, 2013	Presentation of a maximum of three statements
3	Case of Espinoza Gonzáles <i>et al.</i> v. Peru	February 21, 2013	Presentation of a maximum of three statements
5	Case of Tide Méndez <i>et al.</i> v. Dominican Republic	March 1, 2013	Presentation of a maximum of four statements
6	Case of Osorio Rivera <i>et al.</i> v. Peru	March 12, 2013	Presentation of a maximum of three statements
7	Case of Argüelles <i>et al.</i> v. Argentina	June 12, 2013	Presentation of a maximum of two statements and attendance of two inter-American defenders at the public hearing
8	Case of the Miguel Castro Castro Prison v. Peru	July 29, 2013	Attendance of one of the common interveners of the representatives of the victims at the private hearing on monitoring compliance
9	Case of Rochac Hernández <i>et al.</i> v. El Salvador	December 12, 2013	Presentation of a maximum of five statements
10	Case of the Garífuna Community and its members v. Honduras	December 18, 2013	Attendance of two representatives and presentation of three statement

It should be repeated that, following the approval of the expenses, the final amount is determined following the delivery of the judgment.

c.2) Expenditure approved and respective reimbursements from 2010 to 2013

Between 2010 and 2013, the President of the Inter-American Court of Human Rights has declared that the application made by the presumed victims to access the Victims' Legal Assistance Fund of the Court is admissible in 25 cases.

As the Rules establish, the States are obliged to reimburse the percentage of the Fund used when the Court decides this in the judgment.

The following table indicates: (i) the name of the case; (ii) the order declaring admissible the approval of access to the fund; (iii) the destination of the said expenses; (iv) the final amount of the said expenses, as applicable; (v) the judgment declaring the obligation to make the

¹⁶³ The said orders are available at: <http://corteidh.or.cr/index.php/es/fondo-victimas>

reimbursement and the sum to be reimbursed, as appropriate, and, lastly, (vi) the amount reimbursed by the State, as applicable.

Case	Order ¹⁶⁴	Description of expenditure	Amount	Judgment ¹⁶⁵	Reimbursed at December 31, 2013	
1	González Medina and family members v. Dominican Republic	February 23, 2011	To cover the expenses of travel and accommodation for one victim and one witness to attend the public hearing; expenses of one statement presented by affidavit	US\$ 2,219.48	February 27, 2012	0%
2	Kichwa Indigenous People of Sarayaku v. Ecuador	March 3, 2011	To cover the expenses of travel and accommodation for four victims to attend the public hearing	US\$ 6,344.62	June 27, 2012	100%
3	Uzcátegui <i>et al.</i> v. Venezuela	June 1, 2011	To cover the expenses of travel and accommodation for two victims to attend the public hearing; expenses of one statement presented by affidavit	US\$ 4,833.12	September 3, 2012	0%
4	Contreras <i>et al.</i> v. El Salvador	March 4, 2011	To cover the expenses of travel and accommodation for two victims and one expert witness to attend the public hearing	US\$ 4,131.51	August 31, 2011	100%
5	Torres Millacura <i>et al.</i> v. Argentina	April 14, 2011	To cover the expenses of travel and accommodation for one victim, one expert witness and one representative to attend the public hearing	US\$ 10,043.02	August 26, 2011	0%
6	The Barrios Family v. Venezuela	April 15, 2011	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of one statement presented by affidavit	US\$ 3,232.16	November 24, 2011	0%
7	Fornerón and daughter v. Argentina	May 31, 2011	To cover the expenses of travel and accommodation for one victim and one representative to attend the public hearing; expenses of one statement presented by affidavit	US\$ 9,046.35	April 27, 2012	0%
8	Furlan and family members v. Argentina	November 23, 2011	To cover the expenses of travel and accommodation for two inter-American defenders, one victim and two expert witnesses to attend the public hearing; expenditure of preparing affidavits; present and future expenses of inter-American defenders	US\$ 13,547.87	August 31, 2012	0%
9	Castillo González <i>et al.</i> v. Venezuela	November 28, 2011	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of two statements presented by affidavit		AQUITTAL (i.e. State was not sentenced to reimburse these amounts)	
10	Nadege Dorzema <i>et al.</i> v. Dominican Republic	December 1, 2011	To cover the expenses of travel and accommodation for two victims and one representative, to attend the public hearing; expenses of one statement presented by affidavit	US\$ 5,972.21	October 24, 2012	0%
11	Massacres of El Mozote and nearby places v. El Salvador	December 1, 2011	To cover the expenses of travel and accommodation for three victims and one expert witness to attend the public hearing	US\$ 6,034.36	October 25, 2012	100%
12	Mendoza <i>et al.</i> v. Argentina	May 8, 2012	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of two expert opinions provided by affidavit	US\$ 3,693.58	May 14, 2013	0%

¹⁶⁴ Order approving the disbursement in the corresponding case.

¹⁶⁵ Judgment in which the final expenses covered were decided.

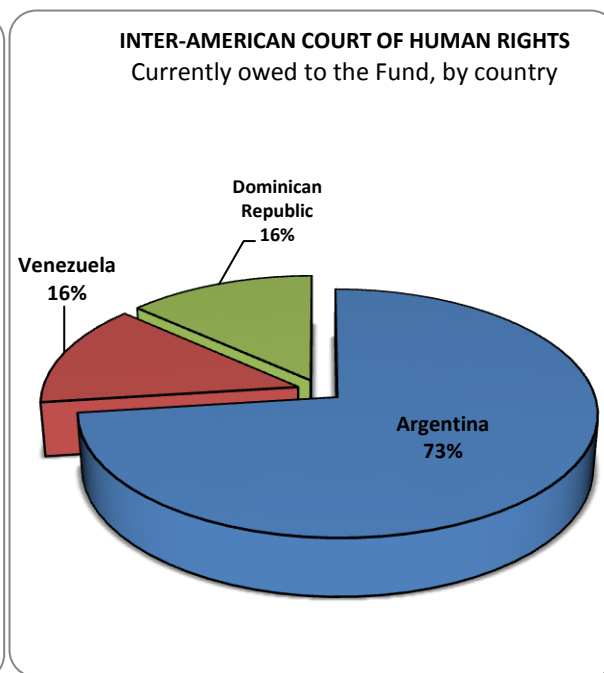
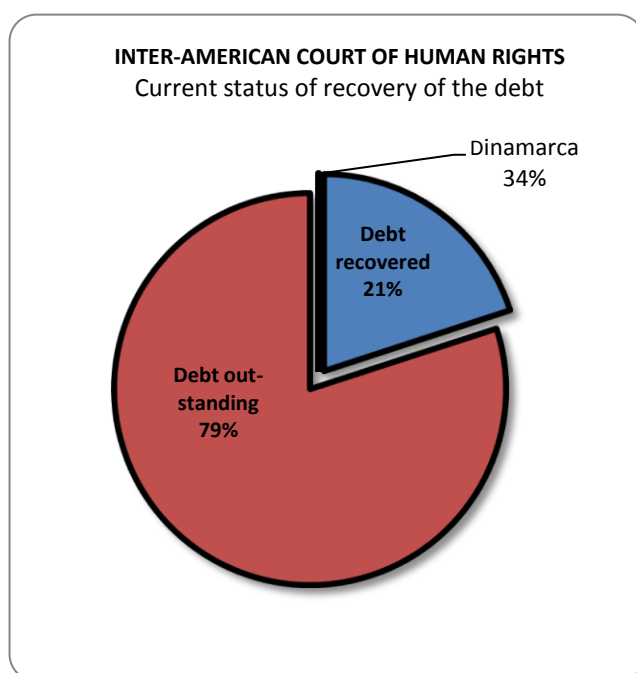
13	Mohamed v. Argentina	June 4, 2012	To cover the expenses of travel and accommodation for two inter-American defenders and one expert witness to attend the public hearing; expenses for the statement of one expert witness and one victim by affidavit	US\$ 7,539.42	November 23, 2012	0%
14	Suárez Peralta v. Ecuador	September 14, 2012	To cover the expenses of travel and accommodation for one witness to attend the public hearing; expenses of three statements presented by affidavit	US\$ 1,436.00	May 21, 2013	100%
15	J. v. Peru	October 24, 2012	To cover the expenses of travel and accommodation for one witness and one representative to attend the public hearing; expenses of one statement presented by affidavit	US\$ 3,683.52	November 27, 2013	0%
16	Osorio Rivera <i>et al.</i> v. Peru	March 12, 2012	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of one statement presented by affidavit	US\$ 3,306.86	November 26, 2013	0%

As can be seen from the preceding table, to date, most of the countries have *not* reimbursed the amounts disbursed by the Court. This means that of the 17 cases that have benefited from the Fund and in which the Court has declared the obligation to reimburse the expenses covered, the expenses have been reimbursed in only four cases, namely: *Contreras et al. v. El Salvador, Massacres of El Mozote and nearby places v. El Salvador, Kichwa Indigenous People of Sarayaku v. Ecuador* and *Suárez Peralta v. Ecuador*.¹⁶⁶

¹⁶⁶ Orders of the Inter-American Court of Human Rights of May 14, 2013, available at: <http://corteidh.or.cr/index.php/es/fondo-victimas>

Based on the foregoing, the following countries remained in debt to the Fund at the close of the auditing exercise on December 31, 2013;¹⁶⁷

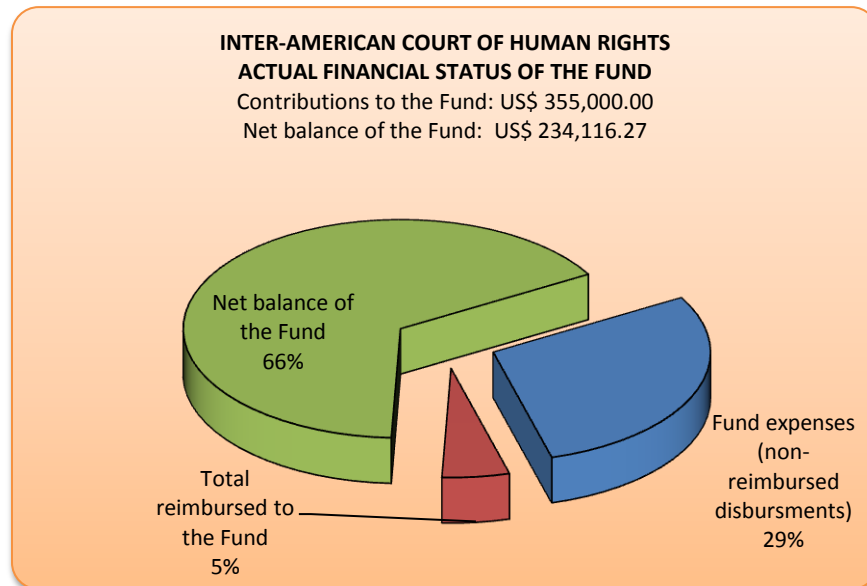
	State	Cases of	Amount
1	Argentina	Torres Millacura <i>et al.</i> Furlan and family members Mendoza <i>et al.</i> Mohamed Fornerón and daughter	US\$ 43,870.24
2	Dominican Republic	González Medina and family members Nadege Dorzema <i>et al.</i>	US\$ 8,191.69
3	Venezuela	Barrios Family Uzcátegui <i>et al.</i>	US\$ 8,065.28
		Total owed	US\$ 60,127.21



As revealed by the above tables and charts, to date only 21% of the total has been recovered, while the remaining amount, equal to 79% of the sums disbursed to date has not yet been reimbursed to the Fund. This dangerous dynamic seriously compromises the future solvency and operation of this Fund, with all that this implies for the effective access by victims to inter-American justice.

¹⁶⁷ Only the debts that, according to the corresponding judgment, should have been reimbursed to the Fund by December 31, 2013, are included.

It should also be pointed out that, in 2013 the Court has repeated to the States of Argentina and Venezuela that they must reimburse the amounts paid out for this concept.¹⁶⁸



D) AUDIT OF ACCOUNTS

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, January 1 to December 31, 2011, and January 1 to December 31, 2012, 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.

A copy of this report has been sent to the OAS Secretariat and Office of Audit Services.

¹⁶⁸ Cases of *Mohamed v. Argentina*, *Fornerón and daughter v. Argentina*, *Torres Millacura et al. v. Argentina*, *the Barrios Family v. Venezuela*.

6.2 Inter-American Defender

The latest amendments of the Court's Rules of Procedure of the Court, in force since January 1, 2010, introduced the mechanism of the Inter-American Public Defender. The purpose of this recent mechanism is to guarantee access to inter-American justice by granting free legal aid to presumed victims who did not have the financial resources or lacked legal representation before the Court.

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 (hereinafter "the AIDEF"¹⁶⁹), which entered into force on January 1, 2010. Under this agreement, in those cases in which the presumed 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.

To this end, when a presumed victim does not have legal representation in a case and indicates his or her wish to be represented by an inter-American defender, 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. In addition, the Court will notify the documentation relating to the submission of the case to the Court to the member of the AIDEF appointed as the public defender so that the latter may, from then on, assume the legal representation of the presumed 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

Furthermore, on June 7, 2013, the AIDEF Board approved the new "Unified Rules of Procedure for the actions of the AIDEF before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights."

To date, the AIDEF has provided legal assistance through this mechanism to four cases,¹⁷⁰ of which the Court has already delivered judgment in three of them: Case of *the Pacheco Tineo family v. Bolivia*, Case of *Furlan and family members v. Argentina* and Case of *Mohamed v. Argentina*.

¹⁶⁹ The AIDEF is an organization composed of State institutions and associations of public defenders, and its objectives include providing the necessary assistance and representation to the persons and the rights of the justiciables that permit a comprehensive defense and access to justice, with the appropriate quality and excellence.

¹⁷⁰ Case of *Furlan and family members v. Argentina*, Case of *Mohamed v. Argentina*; Case of *the Pacheco Tineo family v. Bolivia*, Case of *Argüelles et al. v. Argentina*.

VII. TAKING ADVANTAGE OF THE NEW TECHNOLOGIES

7.1 Advanced human rights legal search engine

On October 4, 2013, the “Advanced human rights legal search engine” was introduced. This is a technical tool created under a collaboration project between the Inter-American Court of Human Rights and the Supreme Court of Justice of Mexico, and developed over two years. The purpose of the tool is to allow a growing number of people to become familiar with the development of inter-American case law on human rights, and also so that it becomes an instrument at the service of the judges of the Spanish-speaking countries of the region so that they can have a more systematic access to the Court’s case law.

This project is the result of collaboration between the two institutions and an extraordinary team of hard-working professionals, consisting of more than 40 collaborators including 23 lawyers, 8 computer experts, 3 word processors, and a secretarial unit.

The backbone of the search engine consists of the 30 articles of the American Convention relating to the protected rights and to the obligations of the States. Each paragraph of each judgment on merits delivered by the Inter-American Court of Human Rights up to the last day of 2012 was established as the basic unit of analysis. In addition, the professional team responsible for the elaboration, development and implementation of the search engine was able to identify more than 30,000 jurisdictional concepts relating to human rights, which, when combined, generate more than 152,000 direct interrelationships.

This search engine is intended “to democratize” access to the case law of the Inter-American Court of Human Rights, which will evidently contribute to enhance the inter-American human rights system.

(i) Presentation of the advanced human rights legal search engine in Colombia

In November, the President of the Inter-American Court of Human Rights, Diego García-Sayán, and Judge Humberto Sierra Porto, and the President of the Supreme Court of Mexico, Juan Silva Meza, made a presentation on the search engine to the country’s highest judicial and political authorities, highlighting the importance of its use, and it was agreed to incorporate this tool into the web page of several State agencies.

(ii) Presentation of the advanced human rights legal search engine in Peru

In November, the President of the Inter-American Court of Human Rights, Diego García-Sayán, and the President of the Supreme Court of Mexico, Juan Silva Meza, made a presentation on the search engine to the country’s highest judicial and political authorities,

highlighting the importance of its use, and it was agreed to incorporate this tool into the web page of several State agencies.

7.2 The Inter-American Court's new web site

On May 13, 2013, the Inter-American Court's new human rights web site was inaugurated. The new site includes significant changes in relation to the previous site in order to provide an effective and user-friendly interface that enables the parties to the inter-American human rights system, and those who use it, to have access to the communication and dissemination of information with the immediacy offered by the new technologies.

The home page offers the possibility of entering any of the site's sections: Publications, the Court Today, Library, etc., and permits access to all the Court's case law, incorporating new sections such as "Convocations to a hearing" and "Orders on the Victims' Legal Assistance Fund," in chronological order. The new site also incorporates a search engine that enables the user to consult the case law by specific issues and can locate the Court's cases in relation to articles of the American Convention on Human Rights.

During the sessions, the web site transmits in direct the different activities carried out by the Court and links its visitors to the web sites designed for the sessions held in countries other than Costa Rica.

The site has an English version which provides access to information to the Anglophone community of the inter-American system.

7.3 Digital files

The Court has continued to upload all the files relating to the cases in which judgment has been handed down. At the date of this report, 75% of the files have been uploaded, and it is planned to complete this process in 2014. The uploaded files are available to all interested persons on the Court's webpage.

VIII. OTHER ACTIVITIES OF THE COURT

8.1 Other officials acts

- On March 14, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán and Judge Roberto F. Caldas met with the President of Brazil, Dilma Rousseff, at which time they discussed the current challenges faced by the Inter-American Court of Human Rights.



- On March 14, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán and Judge Roberto F. Caldas met with the President of the Federal Supreme Court of Brazil, Joaquim Barbosa, to organize a special session of the Court to be held in November.
- On March 29, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán, presented the 2012 Annual Report of the Inter-American Court to the OAS Committee on Political and Legal Affairs.
- On June 6, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán, presented a report on the work of the Court and its present and future challenges to the OAS General Assembly.
- From July 28 to 31, the President of the Inter-American Court of Human Rights, Diego García-Sayán, attended a working meeting in Oslo, Norway, of judges from all the international courts, with the participation of judges from the three regional human rights courts, the International Criminal Court, and the International Court of Justice, among others. The meeting was organized by the Brandeis Institute for International Judges (BIIJ).
- On August 10, 2013, the American Bar Association (ABA) presented the Rule of Law Award 2013 to the President of the Inter-American Court of Human Rights, Judge Diego Garcia-Sayán. The ceremony was held in San Francisco, California, during the annual meeting of the ABA.
- On October 29, 2013, the Inter-American Court received the visit of the President of Ireland, Michael D. Higgins. During his visit, Mr. Higgins met with the President, Vice President, and Secretariat of the Inter-American Court of Human Rights and, following this meeting, he made a presentation in the Court's public hearings chamber on "Human rights in the twentieth century: reasons for hope."



This presentation can be found at the following link:

<http://www.president.ie/speeches/human-rights-in-the-twenty-first-century-reasons-for-hope-inter-american-court-of-human-rights/>

- On December 10, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán, participated in the presentation of the 2013 United Nations Human Rights Prize which was awarded by the United Nations to the Supreme Court of Justice of Mexico in recognition of its work in this regard.
- On December 18, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán, made an end-of-year presentation before the OAS Permanent Council. In it, he analyzed the Court's impact on the evolution of human rights in the region and took stock of his work as President of the Court from 2010 to 2013.

The press communiqué with a summary of this presentation can be found at the following link (in Spanish):

http://corteidh.or.cr/docs/comunicados/cp_26_13_esp.pdf

In addition, the audio recording of this presentation can be found at the following link:

<https://www.youtube.com/watch?v=5yokqMZ6jGA&list=PLkh9EPEuEx2sNOv3Z8kwhcHuDZXHHQTt8&index=5>

8.2 Training and dissemination activities

Throughout 2013, the Court organized a series of training and dissemination activities on human rights in order to expand the understanding of the functioning of the Court and the inter-American human rights system. These activities are described below:

(A) SEMINARS

- During the ninety-eighth regular session, the Inter-American Court organized and held, together with the Inter-American Institute of Human Rights, the specialized seminar-colloquium on the inter-American human rights system, in San José, Costa Rica.
- During its forty-seventh special session held in Medellín, Colombia, the Inter-American Court organized a seminar on the inter-American human rights system – tendencies and complementarities, in which, in addition to the judges of the Inter-American Court, the speakers included well-known figures from the Colombian judicial and academic circles and representatives of non-governmental organizations.

- During its forty-eighth special session held in Mexico City D.F., the Inter-American Court organized and held, in conjunction with the Supreme Court of Justice of the Nation, an international seminar on jurisprudential dialogue and impact of the judgments of the Inter-American Court of Human Rights, which took place in the “José Vasconcelos” library, in Mexico City.
- During its forty-ninth special session held in Brasília, Brazil, the Inter-American Court organized, together with the Supreme Court of Brazil an international seminar on the impact of the decisions of the Inter-American Court of Human Rights.

(B) TRAINING COURSES

- On April 16, 2013, the Inter-American Court, in collaboration with the Costa Rican Public Defense agency, offered a training program on the inter-American system for Costa Rican official public defenders. San José, Costa Rica.
- From June 26 to 29, 2013, the Inter-American Court organized, in collaboration with the Ministry of Justice of Brazil, a course on control of conformity with the Convention and case law of the Inter-American Court of Human Rights, João Pessoa, Brazil.
- From July 17 to 19, the Inter-American Court organized, in conjunction with the Public Criminal Defense Agency of Chile and the Human Rights Center of the Universidad de Chile, a workshop for public defenders on the inter-American system, and also an international seminar on access to justice under the inter-American human rights system.
- From September 30 to October 11, 2013, the Inter-American Court, in conjunction with the Inter-American Commission on Human Rights and the Universidad Nacional Autónoma de México (UNAM), organized the Dr. Héctor Fix-Zamudio training course on the inter-American human rights system, Mexico City, Mexico.

(C) PROFESSIONAL VISITS AND INTERNSHIPS

An essential element of the strengthening of the regional system is training all the human capital that, in future, will be working in the area of human rights, such as: future human rights defenders, public servants, members of the legislature, agents of justice, academics, members of civil society, etc. Thus, the Court has implemented a successful program of internships and professional visits in order to disseminate the work of the Court and the inter-American human rights system.

This program offers students and professionals from the areas of law, international relations, political science, languages and translation the opportunity to gain experience at the seat of the Inter-American Court of Human Rights, carrying out high-level international judicial tasks and acquiring special knowledge of the Court’s case law and of international human rights law.

The interns and visiting professionals are assigned to one of the Court’s legal teams, in keeping with the Court’s needs. Among other functions, the work consists in researching human rights matters, writing legal reports, analyzing international human rights

jurisprudence, collaborating in the processing of the contentious cases, advisory opinions, provisional measures, and monitoring of compliance with the Court's judgments, providing logistical help during the public hearings and developing legal arguments for specific cases.

Owing to the large number of applicants, the competition is intense. At the end of the program, the intern or visitor receives a diploma certifying that he or she has successfully completed the internship or visit.

The Court is aware of the importance of its program of internships and professional visits nowadays. Over the last five years, the Court has received at its seat a total of 334 interns, nationals of 40 different countries;¹⁷¹ in particular, academics, public servants, law students, and human rights defenders.

In 2013, the Court received at its seat 65 interns and professional visitors from the following 22 countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, France, Guatemala, Honduras, Italy, Kenya, Mexico, Nicaragua, Peru, Puerto Rico, Spain, Switzerland, United Kingdom, United States of America, Uruguay and Venezuela.

Further information on the program of Internships and Professional visits offered by the Inter-American Court of Human Rights is available at:

<http://www.corteidh.or.cr/index.php/es/acerca-de/programa-pasantias>

¹⁷¹ Argentina, Bolivia, Brazil, Canada, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, El Salvador, England, France, Germany, Greece, Guatemala, Haiti, Honduras, Italy, Jamaica, Kenya, Mexico, Nicaragua, the Netherlands, Norway, Panama, Peru, Poland, Portugal, Puerto Rico, Scotland, South Korea, Spain, Switzerland, United States of America, Uruguay and Venezuela.

IX. AGREEMENTS AND RELATIONS WITH OTHER ORGANIZATIONS

During 2013, the Court signed the following agreements with the organizations and entities indicated below:

9.1 Agreements with international organizations

- **Agreement with the European Court of Human Rights**

In 2013, relations between the Inter-American Court of Human Rights and the European Court of Human Rights were strengthened and supported by an exchange program under which one lawyer from each international organ made a professional visit to conduct research in order to obtain a better knowledge of these two regional systems and to encourage continuing collaboration between the two organs. The Court designated the coordinating lawyer, Oscar Parra Vera, to take part in this exchange, while the European Court was represented by the lawyer, Guillem Cano Palomares. Both jurists incorporated work teams and proceedings of the respective court, and carried out activities to divulge the main procedural aspects relating to the management and processing of cases, as well as the case law of the two courts. In addition, they identified a series of best procedural practices that could be incorporated into the daily tasks of both organs.

9.2 Agreements with organs of the Executive

The Court signed the following framework cooperation agreements:

- 1) Framework cooperation agreement with the Associação dos Magistrados Brasileiros
- 2) Framework cooperation agreement with the National Justice Secretariat, the Amnesty Commission, and the National Refugees Committee of the Ministry of Justice of Brazil

The signatories agreed to carry out the following activities, *inter alia*, together: (i) congresses, seminars, colloquiums and courses for State employees; (ii) professional internships for officials at the seat of the Court; (iii) joint juridical activities and research; (iv) assessment of the possibility of offering a program of free legal assistance for people who do not have sufficient resources to access the inter-American system; (v) exchange of legal publications and material; (vi) participation of officials in the respective education and training programs or courses; (vii) facilitation to the Court's investigators of access to the case law produced by the national jurisdiction, and also (viii) any other activity that contributes to improving the capacities of the officials of the two institutions.



In addition, on November 28, 2013, the President of the Inter-American Court of Human Rights, Diego García-Sayán, signed an agreement with the Government of Brazil, represented by the Ambassador of Brazil to Costa Rica, Maria Dulce Silva Barros, for the systematization, translation into Portuguese, and publication of the main judgments issued by the Inter-American. Based on this agreement sponsored by the Ministry of Justice and the National Justice Secretariat of Brazil, the Court will translate into Portuguese, for the first time in its history, its main judgments concerning: (i) the right to life, amnesties, the right to the truth; (ii) the rights of the indigenous peoples; (iii) economic, social and cultural rights, discrimination; (iv) the right to personal integrity; (v) the right to personal liberty; (vi) freedom of expression, and (vii) migration.

These judgments will then be organized and published in seven thematic collections, consisting of 2,000 copies, which will be available for dissemination and distribution by the Ministry of Justice and the National Justice Secretariat of Brazil. This project will give agents of justices, civil society, students, and Brazilian society in general access to the judgments of the Court.

9.3 Agreements with organs of the Judiciary

The Court signed the following framework cooperation agreements:

- 1) Framework cooperation agreement with the Plurinational Constitutional Court of Bolivia
- 2) Framework cooperation agreement with the Judiciary of the Republic of Peru
- 3) Framework cooperation agreement with the State Electoral Institute of Baja California Sur

The signatories agreed to carry out the following activities, *inter alia*, together: (i) organization and execution of training events, such as congresses, seminars, conferences, academic forums, colloquiums, symposiums, etc.; (ii) professional visits and specialized internships at the seat of the Inter-American Court of Human Rights for Judiciary officials; (iii) joint research activities; (iv) making available to the Judiciary the advanced human rights search engine, providing the respective training, and allowing the Judiciary to log on to its systematized case law; (v) exchange of information; (vi) establishment of appropriate criteria and mechanisms for the joint printing and reproduction of specialized material produced by both entities; (vii) participation of officials from both parties in the respective education and training programs and courses, and also (viii) any other activity that contributes to developing the capacities of the officials of the two institutions.

9.4 Agreements with universities and other entities

The Court signed the following agreements and framework cooperation agreements:

- 1) Cooperation agreement with University of Cambridge, Faculty of Law

- 2) Memorandum of understanding with the American University Washington College of Law
- 3) Framework cooperation agreement with the Colombian Human Rights Institute (ICDH)
- 4) Framework cooperation agreement with Remington University Corporation
- 5) Framework cooperation agreement with the Colegio de Abogados del Derecho Público y Privado de Mexico A.C.
- 6) Framework cooperation agreement with the Universidad Nacional Autónoma de Mexico ("UNAM")
- 7) Framework cooperation agreement with the Universidad Autónoma de Yucatán
- 8) Framework cooperation agreement with Centros Culturales de Mexico A.C., owner of the Universidad Panamericana
- 9) Framework cooperation agreement with the Universidad Autónoma de Baja California
- 10) Framework cooperation agreement with the Escuela Libre de Derecho
- 11) Framework cooperation agreement with the Facultad Latinoamericana de Ciencias Sociales (FLACSO), Mexico
- 12) Framework cooperation agreement with the Instituto Tecnológico y de Estudios Superiores de Monterrey
- 13) Framework cooperation agreement with the Universidad Autónoma de Chiapas ("UNACH")
- 14) Framework cooperation agreement with the Universidad Austral

The signatories agreed to carry out the following activities, *inter alia*, together: (i) organization of congresses and seminars, and (ii) professional internships for professionals and students of the said institutions at the seat of the Inter-American Court of Human Rights.