

Inter-American Court of Human Rights
Case of García-Prieto *et al.* v. El Salvador
Judgment of November 24, 2008
(Interpretation of the Judgment on
Preliminary Objections, Merits, Reparations and Costs)

In the Case of García Prieto et al.,

The Inter-American Court of Human Rights (hereinafter, "the Inter-American Court", "the Court", or "the Tribunal"), composed of the following judges:*

Sergio García Ramírez , President;

Cecilia Medina Quiroga, Vice President;

Manuel E. Ventura Robles, Judge;

Leonardo A. Franco, Judge;

Margarette May Macaulay, Judge;

Rhadys Abreu Blondet, Judge; and

also present,

Pablo Saavedra Alessandri, Secretary,**

pursuant to Article 67 of the American Convention on Human Rights (hereinafter, "the Convention" or "the American Convention") and Article 59 of the Court's Rules of Procedure (hereinafter, "the Rules of Procedure"), renders a decision on the request for interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs delivered by the Court on November 20, 2007, in the *Case of García Prieto et al.* (hereinafter, "the request" or "the request for interpretation") filed by El Salvador (hereinafter, "the State" or "El Salvador").

* On January 22, 2007, Judge Diego García-Sayán excused himself from hearing the instant case in accordance with Article 19 of the Statute and Article 19 of the Rules of Procedure of the Court.

** Deputy Secretary Emilia Segares Rodríguez did not participate in the deliberations concerning this Judgment for reasons beyond her control.

I**INTRODUCTION OF THE REQUEST FOR INTERPRETATION
AND PROCEEDINGS BEFORE THE COURT**

1. On March 14, 2008, the State filed a request for interpretation of the Judgment on the Preliminary Objections, Merits, Reparations and Costs issued in the instant case on November 20, 2007¹ (hereinafter, "the Judgment" or "the Judgment on the Merits"), in accordance with Article 67 of the Convention and Article 59 of the Rules of Procedure. In its petition, the State requested the Court to: a) clarify "the criteria use[d] by [this] Tribunal to characterize an event as 'independent' or a 'specific violation'", in relation to the scope of the time limitation established by El Salvador in recognizing the jurisdiction of the Court; b) "confirm if provisional measures should continue [...] to the benefit of individuals not held [...] to be victims by th[is] Tribunal", specifically to the benefit of María de los Ángeles García Prieto de Charur, José Benjamín Cuellar Martínez, Matilde Guadalupe Hernández de Espinoza, José Roberto Burgos Viale and Ricardo Iglesias Herrera; and c) clarify "what the finding of the Court was on the statute of limitations applicable to the criminal action" with respect to the investigation of the death of Ramón Mauricio García Prieto Giralt (hereinafter, "Mr. García Prieto").

2. On March 24, 2008, in accordance with Article 59(2) of the Rules of Procedure and following the instructions of the President of the Court, the Secretariat of the Court delivered a copy of the request for interpretation to the Inter-American Commission on Human Rights (hereinafter, "the Commission" or "the Inter-American Commission") and the representatives of the victims (hereinafter, "the representatives"), informing them that they had a non-extendable deadline of May 5, 2008 to submit such written arguments as they may deem appropriate. Furthermore, the State was thereby reminded that, pursuant to Article 59(4) of the Rules of Procedure, "[the] request for interpretation shall not suspend the effect of the judgment."

3. On May 5, 2008, the Commission and the representatives respectively submitted the abovementioned written arguments.

II**JURISDICTION AND COMPOSITION OF THE COURT**

4. Under Article 67 of the American Convention,² the Court is competent to interpret its own judgments. When considering a request for interpretation, the Court must be composed, whenever possible, of the same judges who delivered the judgment of which the interpretation is being sought (Article 59(3) of the Rules of Procedure). On this occasion, the Court is composed of the same judges who delivered

¹ Cf. *Case of García-Prieto et al. Preliminary Objections, Merits, Reparations and Costs*. Judgment of November 20, 2007. Series C No. 168.

² Article 67 of the Convention sets forth that:

[t]he judgment of the Court shall be final and not subject to appeal. In the event of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

the Judgment of which the interpretation has been requested.

III

ADMISSIBILITY

5. The Court must verify whether the terms of the request for interpretation comply with the requirements laid down in the applicable provisions, namely Article 67 of the Convention and Articles 29(3)³ and 59⁴ of the Rules of Procedure.

6. The Court finds that the State filed a request for interpretation within the term set forth in Article 67 of the Convention, since the Judgment was notified to the State, the Inter-American Commission and the representatives on December 21, 2007.

7. Moreover, as previously held by this Court,⁵ a request for interpretation of a judgment may not be used as a means of challenging a ruling, but rather, its sole purpose should be to clarify the meaning of a ruling when a party alleges that the wording of its operative paragraphs or its whereas clauses is unclear or ambiguous, provided that such considerations have a bearing on the operative part. Consequently, the modification or annulment of the relevant judgment cannot be sought through a request for interpretation.

IV

CRITERIA OF THE COURT TO HOLD THE FACTS SUBSEQUENT TO THE ACKNOWLEDGMENT OF JURISDICTION TO BE INDEPENDENT OR SPECIFIC VIOLATIONS

³ Under Article 29(3) of the Rules of Procedure, "[j]udgments and orders of the Court may not be contested in any way."

⁴ Article 59 of the Rules of Procedure provides as follows:

1. The request for interpretation, referred to in Article 67 of the Convention, may be made in connection with judgments on the merits or on reparations and shall be filed with the Secretariat. It shall state with precision the issues relating to the meaning or scope of the judgment of which the interpretation is requested.

[...]

4. A request for interpretation shall not suspend the effect of the judgment.

5. The Court shall determine the procedure to be followed and shall render its decision in the form of a judgment.

⁵ Cf. *Case of Loayza Tamayo. Interpretation of Judgment on the Merits*. Order of the Court of March 8, 1998. Series C No. 47, para. 16; *Case of Albán Cornejo et al v. Ecuador. Interpretation of the Judgment on the Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 183, para 7; and *Case of Pueblo Saramaka v. Surinam. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs*. Judgment of August 12, 2008. Series C No. 185, para. 9.

8. The State pointed out that it recognized the jurisdiction of the Court on June 6, 1995, and that paragraph 2 of said acknowledgment provided as follows:

The Government of El Salvador, in acknowledging jurisdiction, states that acceptance thereof is made [...] with the caveat that [...] the cases where [...] jurisdiction is acknowledged may solely and exclusively involve legal acts and events that are subsequent to, or legal acts and events whose performance or occurrence commenced after [...] the date of the deposit of this Declaration of Acceptance, [...]

Therefore, the State maintained that its declaration and "reservation" have a broader scope than that asserted by the Court. Further, it stated that the "reservation" is aimed at excluding "the legal acts or events whose performance or occurrence commenced before [...] the established deadline [...], and that produce effects after such date [...], since their main characteristic is that they commenced before [the date of acceptance] and continue over time as a consequence of the initial act. These legal acts or events may not be isolated as they cannot stand on their own without being based upon the main event, which is not subject to the jurisdiction of the Court". In this regard, the State requested a clarification as to the criteria used by the Court to hold an event to be "independent" or a "specific violation", since the facts the Court decided to rule on result from the same issue over which the Court determined it had no jurisdiction.

9. The Commission noted that, in the Judgment, despite acknowledging its lack of jurisdiction regarding the death of Mr. García-Prieto, the Court considered that "during the course of a legal proceeding –which is only one composed of various stages-independent events may take place that [may] constitute separate and specific violations that [may involve] a denial of justice". The Commission stated that the Court "considered the arguments submitted by the parties [...] and ruled on them in [the J]udgment". Therefore, it held that "the request of the State is aimed at challenging the decision of the Court and does not constitute a proper request for interpretation of the Judgment."

10. The representatives stated that El Salvador did not request any clarification of obscure or unclear points in the Judgment; on the contrary, the State "seeks to have the Tribunal's decision about its jurisdiction *ratione temporis* to hear the matter before it reversed". Therefore, the representatives requested that the State's request be dismissed on the grounds that it was using the request for interpretation as a means of challenging the decision and, consequently, it submitted to the consideration of the Court issues of fact and of law on which the Court had already rendered a decision.

11. The Court held in the Judgment on the merits that:

43. The Court has already explained that a legal proceeding –that is only one composed of various stages-independent events may arise which may constitute specific and separate violations involving a denial of justice.

44. Therefore, the time limitation set by the State in recognizing the jurisdiction of the Court lacks any effects regarding any independent events that may amount to specific violations within the jurisdiction *ratione temporis*.

45. The Court has jurisdiction to examine, in the light of the content of Articles 8(1) and 25(1) of the Convention, the acts or omissions occurred during the course of police or judicial proceedings, and that may be characterized as "separate events" and that occurred within the jurisdiction *ratione temporis* of the Court; i.e. after June 6, 1995. [...]

12. In paragraphs 43, 44 and 45 of the Judgment on the Merits, the Court clearly stated that, under its jurisdiction *ratione temporis*, it has the power to examine the acts or omissions occurred in the instant case after June 6, 1995, which may be characterized as independent events and produce legal effects. The Court has repeatedly explained the difference between reservations to the Convention and the act whereby the jurisdiction of the Court is recognized.⁶ Similarly, the Court has clearly established the scope of the declaration made by El Salvador and the effects such declaration may have on the jurisdiction of the Court in a specific case.⁷ Moreover, on several occasions, the Court has held that during the course of the proceedings, independent events may arise that may constitute separate and specific violations involving a denial of justice.⁸ For instance, a court disregarding the right to defense counsel at all stages of proceedings;⁹ prohibiting defense attorneys to hold private interviews with their clients, to inspect the records of the case, produce evidence, challenge the opposing party's evidence and adequately prepare arguments;¹⁰ 'faceless' judges and prosecutors participating in proceedings,¹¹ subjecting the accused to torture and ill-treatment to obtain a confession;¹² failing to inform a foreign defendant of their right to obtain consular assistance,¹³ and violating the principle of consistency and correspondence between accusation and judgment.¹⁴ Based on the considerations above, the Court finds that the Judgment on the Merits is sufficiently clear in this regard.

13. Consequently, the first question raised by the State (*supra* para. 8) does not satisfy the requirements of the American Convention and the Rules of Procedure; therefore, it is rejected by the Court.

V

OBLIGATION OF THE STATE TO MAINTAIN THE PROVISIONAL MEASURES IN FAVOR OF INDIVIDUALS WHO WERE NOT HELD TO BE VICTIMS BY THE COURT IN THE JUDGMENT

⁶ Cf. *Case of Cantos v. Argentina. Preliminary Objections*. Judgment of September 7, 2001. Series C No. 85, para. 34; *Case of Alfonso Martin del Campo-Dodd v. Mexico. Preliminary Objections*. Judgment of September 3, 2004. Series C No. 113, para. 68; and *Case of the Serrano-Cruz Sisters v. El Salvador. Preliminary Objections*. Judgment of November 23, 2004. Series C No. 118, para. 61.

⁷ Cf. *Case of the Serrano-Cruz Sisters*, *supra* note 6, paras. 62-84; and *Case of García-Prieto et al.*; *supra* note 1, paras. 39-45.

⁸ Cf. *Case of the Serrano-Cruz Sisters*, *supra* note 6, para. 84; and *Case of Almonacid-Arellano et al. v. Chile. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 26, 2006. Series C No. 154, para. 48.

⁹ Cf. *Case of the Yakye Axa Indigenous Community v. Paraguay. Merits, Reparations and Costs*. Judgment of June 17, 2005. Series C No. 125, para. 117; and *Case of Almonacid-Arellano et al.*, *supra* note 8, para. 48.

¹⁰ Cf. *Case of Castillo-Petruzzi et al. v. Peru. Merits, Reparations and Costs*. Judgment of May 30, 1999. Series C No. 52, paras. 141 and 142, 146-149 and 153-156; and *Case of Almonacid-Arellano et al.*, *supra* note 8, para. 48.

¹¹ Cf. *Case of Lori Berenson-Mejía v. Peru. Merits, Reparations and Costs*. Judgment of November 25, 2004. Series C No. 119, para. 147; and *Case of Almonacid-Arellano et al.*, *supra* note 8, para. 48.

¹² Cf. *Case of Cantoral-Benavides v. Peru. Merits*. Judgment of August 18, 2000. Series C No. 69, para. 104; *Case of Tibi v. Ecuador. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 7, 2004. Series C No. 114, para. 146; and *Case of Almonacid-Arellano et al.*, *supra* note 8, para. 48.

¹³ Cf. *Case of Acosta-Calderón v. Ecuador. Merits, Reparations and Costs*. Judgment of June 24, 2005. Series C No. 129, para. 125; and *Case of Almonacid-Arellano et al.*; *supra* note 8, para. 48.

¹⁴ Cf. *Case of Fermín Ramírez v. Guatemala. Merits, Reparations and Costs*. Judgment of June 20, 2005. Series C No. 126, para. 65 a 69; and *Case of Almonacid-Arellano et al.*, *supra* note 8, para. 48.

14. The State indicated that, by the Order of September 26, 2006, the Court instructed the State to adopt provisional measures to the benefit of Gloria Giralt de García-Prieto, José Mauricio García-Prieto-Hirlemann and María de los Ángeles García-Prieto de Charur, and to the benefit of the members of the *Instituto de Derechos Humanos de la Universidad Centroamericana José Simeón Cañas* (Human Rights Institute of the *Universidad Centroamericana José Simeón Cañas*, hereinafter "IDHUCA") José Benjamín Cuellar-Martínez, Matilde Guadalupe Hernández de Espinoza and José Roberto Burgos-Viale, further including, on December 3, 2006, Ricardo Alberto Iglesias-Herrera, who had been offered as expert by IDHUCA. It added that, in its Judgment, the Court found that "only José Mauricio García-Prieto Hirlemann and Gloria Giralt de García-Prieto were injured parties, as victims of the violations committed against them", and thus requested the Court to confirm if provisional measures should continue in favor of all other individuals mentioned above, since those persons were not held to be victims.

15. In that regard, the Commission considered that the fact that the Court did not hold the aforementioned individuals to be victims does not affect the effectiveness of the protection measures ordered, which should be maintained as long as the circumstances that led to their adoption continue to exist, in accordance with Article 63(2) of the Convention. Based on the foregoing, the Commission considered that the protection measures should remain in force, irrespective of the Judgment rendered by this Court. Therefore, the Commission concluded that "the request for clarification filed by the State regarding the effectiveness of the provisional measures is not subject to interpretation under the Judgment rendered in the instant case."

16. The representatives stated that this request made by the State "is not aimed at clarifying an obscure point of the [J]udgment either, [since] the granting of the provisional measures to the benefit of these individuals was made effective through two separate orders, different from the [J]udgment whose interpretation is sought [...]. Consequently, the request of the State should be dismissed." The representatives, moreover, indicated that the provisional measures had not been implemented effectively in the instant case.

17. The Court notes that paragraphs 13 and 14 of the Judgment on the Merits contain a summary related to the adoption and extension of the provisional measures ordered by the Court, by means of the Orders issued on September 26, 2006, and January 27, 2007, to the benefit of the following individuals: Gloria Giralt de García Prieto, José Mauricio García Prieto Hirlemann, María de los Ángeles García Prieto de Charur, José Benjamín Cuéllar Martínez, Matilde Guadalupe Hernández de Espinoza, José Roberto Burgos Viale, and Ricardo Alberto Iglesias Herrera. However, in the Judgment, this Court made no specific ruling on the provisional measures mentioned above.

18. The Court notes that the subject-matter of the provisional measures is different from that of the cases brought before the Court since, in accordance with Article 63(2) of the American Convention,¹⁵ provisional measures are exceptional in nature insofar

¹⁵ Section 63(2) of the American Convention provides that:
In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

as they are ordered based on the need for protection and, once ordered, they must be maintained provided the Court considers that the requirements of extreme gravity and urgency, and the need to prevent irreparable damage to the rights of the individuals protected by these measures continue to be met.¹⁶

19. Therefore, the characteristics of the beneficiaries of the provisional measures are different from those of the alleged victims in a case. Thus, the former fall within the circumstances set out in Article 63(2) of the Convention while the latter were identified as such during the proceedings before the Inter-American System, in accordance with the formalities laid out in the Convention. Even if, in some cases the same person may have the concurrent status of 'beneficiary' and 'victim', it is not a condition of entitlement to provisional measures that a person be held to be a "victim" by the Court.

20. Based on the foregoing considerations, the Court considers that the question raised by the State in paragraph 14 is not aimed at clarifying or defining the content of some point in the aforesaid judgment; nor is it aimed at understanding the meaning of the Court's decision because its operative paragraphs or whereas clauses are unclear or ambiguous. Therefore, it should be dismissed given that it does not meet the requirements of the American Convention and the Rules of Procedure, for the purposes of interpretation.

VI

FINDING BY THE COURT REGARDING THE STATUTE OF LIMITATIONS OF THE CRIMINAL ACTION IN THE INVESTIGATION INTO THE DEATH OF MR. GARCÍA-PRIETO

21. The State pointed out that in the Judgment, the Court ordered that a judicial investigation into the murder of Mr. García Prieto be conducted, but did not address the statute of limitations issue with respect to the criminal action applicable to the case. However, "it did order the State to continue and conclude the investigations". Therefore, the State requests the Court to clarify "its finding regarding the statute of limitations of the criminal action applicable to the case, considering that the Penal Code in force in El Salvador at the time of the murder [...] establishes a ten-year statute of limitations for crimes punishable by a maximum term of imprisonment of more than fifteen years". Consequently, the State argued that "the criminal action aimed at finding the truth about the death [of Mr.] García Prieto [...] is outside the jurisdiction of the Court, since the statute of limitations applicable to criminal actions is a basic principle of Criminal Law enshrined in [the] legislation" of El Salvador.

22. The Commission mentioned that the representatives and the Commission itself had requested the Court to set aside the statute of limitations applicable to the criminal action with respect to the investigation, but the Court did not ruled on the issue "since no evidence was found in the prosecutor's records [...] to establish that it

¹⁶ Cf. *Case of the Constitutional Court. Request for Provisional Measures regarding Peru*. Order of the Court of March 14, 2001, Considering clause No. 3; *Case of Álvarez et al.. Provisional Measures regarding Colombia*. Order of the Court of February 8, 2008, Considering clause No. 13; and *Case of the Gómez-Paquiyaury Brothers*. Provisional Measures regarding Peru. Order of the Court of May 3, 2008, Considering clause No. 11.

was applied to that specific case.” It added that, pursuant to the precedents of the Court “domestic law obstacles or statutes of limitations hindering or barring the investigation and punishment of those responsible for human rights violations are inadmissible”. Finally, it concluded that, under the terms of the judgment, “the State must continue with the relevant investigations into the circumstances of the murder of Mr. García Prieto, as well as of the threats and harassment” endured by his parents.

23. The representatives stated that the Judgment was clear about the obligation of the State to continue with the investigations related to the murder of Mr. García-Prieto. They pointed out that the State raised issues of fact and law that had already been heard and ruled on by the Court. Therefore, they noted that the State “attempts to use the request for interpretation as a means to challenge the [J]udgment”. The representatives added that “in the event that the Court decides to allow the question [raised by] the State, it should be noted that [the latter...] may not invoke domestic law obstacles to justify failure to fulfill its international obligations”. Consequently, the representatives maintained that, given that the Court ordered the State to investigate the facts of the instant case, the State may not rely on the statute of limitations to circumvent said obligation.

24. The Court finds that the Judgment on the Merits is clear in providing in paragraphs 193, 194 and 195 that the State must conclude the investigation, for which purposes, it must resort to all means available to further such investigation and all related proceedings, and thus prevent repetition of events such as those in the instant case. Although, the Court made no finding as to the statute of limitations issue since, as clearly stated in paragraph 197 of the Judgment, it held that in prosecutor’s record No. 34-00-03 related to the investigation of the potential participation of masterminds in the murder of Mr. García Prieto and the identification of a potential third individual that may have been involved in the incidents, there was no evidence to establish the application of the statute of limitations to the case. The Court restates that it cannot rule on that issue until the application of the statute of limitations is confirmed by the relevant authority. Therefore, this issue may be examined at the judgment compliance monitoring stage, if appropriate.

25. Consequently, the third question raised by the State (*supra* para. 21) is held to be inadmissible by the Court.

VII

OPERATIVE PARAGRAPHS

26. Therefore,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to Article 67 of the American Convention on Human Rights and Articles 29(3)

and 59 of the Rules of Procedure of the Court,

DECIDES:

Unanimously,

1. To dismiss the request for interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs rendered by the Inter-American Court of Human Rights on November 20, 2007.

2. To request the Secretariat of the Court to serve notice of this Judgment upon the State, the Inter-American Commission on Human Rights and the representatives of the victims.

Done in Spanish and English, the Spanish version being authentic, in San José, Costa Rica, on November 24, 2008.

Sergio García Ramírez
President

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary