

Press Release 60/2024 English

## **INTER-AMERICAN COURT CONDUCTED A VISIT TO GUATEMALA TO MONITOR COMPLIANCE WITH JUDGMENTS**

*San José, Costa Rica, September 17, 2024.*- A delegation from the Inter-American Court and its Registrar's Office visited Guatemala City, Guatemala, on September 9 and 10, 2024, to hold private hearings on monitoring compliance with judgments, meet with State authorities and hold an activity to celebrate the 45<sup>th</sup> anniversary of the installation of the I/A Court HR. On behalf of the Court's delegation, the activities were led by Judge Verónica Gómez, who was accompanied by the Deputy Registrar, Gabriela Pacheco Arias, and Ana Lucía Aguirre, Director a.i. and Ana Belem García Chavarría, attorney of the Unit of Monitoring Compliance with Judgment.

We would like to thank Guatemala for its willingness and collaboration to hold these activities of monitoring compliance with judgment in its territory. Specifically, we would like to recognize the Presidential Commission for Peace and Human Rights (COPADEH) for its efforts in organizing the necessary aspects to carry out the activities.



### **I. Hearings on Monitoring Compliance with Judgment**

During September 9 and 10, 2024, the Court held private hearings on monitoring compliance with judgment regarding four cases, which took place at the National Palace of Culture (Palacio Nacional de la Cultura).

To summon these hearings, the Presidency of the Court considered the requests made by the parties in several cases regarding Guatemala that are in the monitoring compliance with judgment stage.

The Court has highlighted the importance of States allowing this type of procedure in their territory, since this modality of hearings and monitoring activities enable greater participation by the victims and the various State officials and authorities directly in charge of implementing and executing the reparations ordered in the judgment, and they create an opportunity to establish direct dialogue between the parties and more willingness to assume commitments aimed at a prompt compliance with the reparations.

## 1. Hearing in the Case of Ramírez Escobar et al.

In the judgment, issued in 2018, the State was found responsible for several human rights violations derived from the family separation endured by Osmín Tobar Ramírez (seven years old) and J.R. (his younger brother, one a half years old), from their mother Flor de María Ramírez Escobar and their father Gustavo Tobar Fajardo, as well as the arbitrary detention of both children in a foster home and their adoption by two different families from the United States, as a consequence of declaration of abandonment proceedings that had serious irregularities and was discriminatory. The violations were committed in a context of institutional weakness of the control bodies and a flexible and inadequate body of regulations that facilitated the creation of organized crime networks and structures dedicated to international adoptions.

In the hearing held on September 9, seven of the reparations ordered to the State in the judgment were monitored, namely:

- Measures for restitution of the family and legal bonds between Flor de María Ramírez Escobar, Gustavo Tobar Fajardo and their son Osmín Tobar Ramírez, as well as the rights obtained at birth, including his name, last name and other personal information, as well as making a serious and multidisciplinary effort, on its own motion, to begin, nurture, or continue the relationship of Flor de María Ramírez Escobar and Osmín Tobar Ramírez with J.R.
- To efficiently lead criminal, administrative and disciplinary investigations into the facts of this case and, if applicable, identify and punish those responsible.
- Several guarantees of non-repetition related to the implementation of an effective national program to guarantee adequate supervision, inspection and control of the institutionalization of children, including constant, periodic and updated training of state officials, justice operators and employees of private institutions; updated census and registration of all institutions, centers or associations; guarantee that the National Adoptions Council has the necessary economic and logistics resources; ensure that the institutionalization of children does not constitute a restrictive abuse of their personal liberty; and to guarantee the progressive deinstitutionalization of children and adolescents.

The Center for Justice and International Law (CEJIL) and Refugio de la Niñez, who are the victims' representatives, participated in the hearing. An attorney who is an Advisor to the Executive Secretary of the Inter-American Commission also participated. On behalf of the State, there were authorities and officials from the Presidential Commission for Peace and Human Rights (COPADEH), the Government Attorney's Office (PGN), the National Adoptions Council (CNA), the Judiciary Branch (OJ), the Attorney General's Office (MP) and the Victims' Institute of Guatemala.





## 2. Hearing in the Case of Coc Max et al. (Massacre of Xamán)

In the judgment, issued in 2018, the State was found internationally responsible for the death of 11 individuals, including one girl and two boys, as well as injuries to other 29 individuals, occurred in the “Massacre of Xamán” on October 5, 1995. The facts were committed by members of the Armed Forces of the Republic of Guatemala during the internal armed conflict that took place between 1962 and 1996.

At the hearing, held on September 9, the Court monitored the six reparations ordered in the judgment that were pending compliance: to continue the investigation of the facts, provide psychiatric or psychological care to the victims, hold a public act of acknowledgment of international responsibility for the facts of the case, establish a health center at the “Aurora 8 de Octubre” community, widen and pave the road from Franja Transversal del Norte highway to the center of “Aurora 8 de Octubre” community, and pay the amounts set forth in the judgment for pecuniary and non-pecuniary damages.

During the hearing the victim Efraín Grave Morente was heard directly; he expressed his requests regarding the implementation of the reparation measures ordered in the judgment in favor of the victims. A group of victims and their next of kin from the “Aurora 8 de Octubre” community, located in Chisec municipality, Alta Verapaz department, attended the hearing in Guatemala City.

Grupo de Apoyo Mutuo (GAM, Mutual Support Group), also participated in the hearing as the victims’ representative. An attorney who is an Advisor to the Executive Secretary of the Inter-American Commission also participated. On behalf of the State, there were authorities and officials from the Presidential Commission for Peace and Human Rights (COPADEH), the Government Attorney’s Office (PGN), the Ministry of Public Health and Welfare (MSPAS), the Ministry of Communications, Infrastructure and Housing (MICIVI) and the Attorney General’s Office (MP).





### 3. Joint hearing in the Case of Veliz Franco et al. and the Case of Velásquez Paiz et al.

In the judgments, issued in 2014 and 2015, respectively, the State was found internationally responsible for failing to act with due diligence to prevent violence against women, as well as the death and aggressions endured by María Isabel Veliz Franco (15 years old) and Claudina Isabel Velásquez Paiz (19 years old), due to the State's failure to search when the next of kin of María Isabel reported her missing on December 17, 2001 and the next of kin of Claudina Isabel reported her disappearance on August 13, 2005. These facts occurred in a context of high levels of violence against women in Guatemala with a high rate of impunity. The Court determined that the criminal investigations, which began when the corpses of María Isabel and Claudina Isabel were found, were not performed with a gender perspective, and there were gender stereotypes and prejudices which negatively influenced the investigation of the facts.

In the hearing, held on September 10, three guarantees of non-repetition were monitored, namely:

- To create a strengthening plan for the National Forensic Sciences Institute (INAFIC), including an adequate allocation of resources to extend its activities in the national territory and to comply with its functions.
- To implement the full functioning of the "specialized jurisdictional organs" throughout the Republic of Guatemala, as well as of the special prosecutor's office indicated in the Law against Femicide.
- To implement permanent education and training programs for State officials from the Public Prosecution Service who are involved in the investigation of the murder of women.

In addition, to monitor the reparations regarding effectively conducting the investigations and identifying, prosecuting and punishing, as appropriate, those responsible for the abuse and deprivation of life of María Isabel Veliz Franco and Claudina Isabel Velásquez Paiz; to provide psychological or psychiatric treatment to the victims that request it in both cases, with prior written consent.





Rosa Elvira Franco Sandoval, mother of María Isabel Veliz Franco, participated in the hearing virtually. Jorge Rolando Velásquez Durán, father of Claudina Isabel Velásquez Paiz, was also heard. Elsa Claudina Paiz Vidal, mother of Claudina Isabel, also attended the hearing.

The Red de la No Violencia contra las Mujeres (REDNOVI, Network to Combat Violence Against Women), and the Association of Mayan Lawyers and Notaries of Guatemala attended the hearing as representatives of the victims in the cases of Veliz Franco et al. and Velásquez Paiz et al., respectively. An attorney who is an Advisor to the Executive Secretary of the Inter-American Commission also participated. On behalf of the State, there were authorities and officials from the Presidential Commission for Peace and Human Rights (COPADEH), the National Institute of Forensic Services (INACIF), the Ministry of Public Health and Welfare (MSPAS), the Judiciary Branch (OJ) and the Attorney General's Office (MP).



## II. Meetings with State authorities at the National Palace of Culture

### 1. Meeting with the President of the Republic of Guatemala

The President of the Republic of Guatemala, Bernardo Arévalo de León, welcomed Judge Verónica Gómez. The Court's Deputy Registrar and the Executive Director of COPADEH also participated. The meeting was held on September 9 at Palacio Nacional de la Cultura.



## **2. Joint meeting with the Government Attorney and the Executive Director of COPADEH**

In this meeting, held on September 9, the delegation of the I/A Court HR was received by the Government Attorney (Procurador General), Julio Roberto Saavedra Pinetta, and the Executive Director of COPADEH, Héctor Oswaldo Samayoa. They had the opportunity to speak with these authorities about monitoring the implementation of provisional measures and compliance with judgments.

## **3. Meeting with the Minister of Public Health and Welfare**

On September 10, the delegation of the I/A Court HR had the opportunity to speak with Joaquín Barnoya Pérez, Minister of Public Health and Welfare of Guatemala regarding the implementation of the measure to provide medical, psychological and/or psychiatric treatment that has been ordered by the Court in multiple judgments. They also spoke of reparations regarding the construction or strengthening of health centers and guarantees of non-repetition related to HIV prevention, and the diagnosis and treatment of HIV positive individuals.

### **III. Celebration of the 45<sup>th</sup> Anniversary of the Installation of the I/A Court HR**

On the other hand, taking advantage of this visit, the Inter-American Court, along with COPADEH, organized an activity to celebrate the 45<sup>th</sup> Anniversary of the Installation of the I/A Court HR. The activity took place on September 10 at the "Patio de La Vida" of the National Palace of Culture.

The Executive Director of COPADEH gave an opening speech, which was followed by a keynote speech by Judge Verónica Gómez on "The Inter-American System for the Protection of Human Rights: Achievements and Challenges." Moreover, the panel discussion "Dialogue between international and national law: contributions of the jurisprudence of the I/A Court HR to the protection of human rights in Guatemala" included the following speakers: Gisela De León De Sedas, Legal Director of CEJIL; Karina Méndez, Executive Director of the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG), and Jovita Tzul, litigation attorney for the Center for Human Rights Legal Action (CALDH). Osmín Ricardo Tobar Ramírez, victim in the Case of Ramírez Escobar et al., recited a poem that he wrote "In justice and in pain."

You can read the activity's program [here](#) and see the livestream [here](#).





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This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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