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I. ORIGIN, STRUCTURE AND JURISDICTION OF THE COURT

A. ESTABLISHMENT

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

The two organs for the protection of human rights provided for under Article 33 of the American Convention are the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) and the Court. The function of these organs is to ensure compliance with the obligations imposed by the Convention.

B. ORGANIZATION

According to the Statute of the Court (hereinafter “the Statute”), the Court is an autonomous judicial institution with its seat in San Jose, Costa Rica; its purpose is the interpretation and application of the Convention

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

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. Vacancies on the Court caused by death, permanent disability, resignation or dismissal shall be filled, if possible, at the next session of the OAS General Assembly (Article 6(1) and 6(2) of the Statute).



Judges shall be 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 (Article 54(3) of the Convention).

States parties to a case are represented in the proceedings before the Court by the agents they designate (Article 21 of the Rules of Procedure) and the Commission is represented by the delegates that it appoints for this purpose. Under the 2001 reform to the Rules of Procedure, the alleged victims or their representatives may submit autonomously their pleadings, motions and evidence, and also take part in the different proceedings and procedural stages before the Court.

The judges are at the disposal of the Court, which holds as many regular sessions a year as may be necessary for the proper discharge of its functions. They do not, however, receive a salary for the performance of their duties, only an honorarium for each day they sessioned and an emolument for rapporteurships. Currently, the Court holds four regular sessions each year. Special sessions may also be called by the President of the Court or at the request of the majority of the judges. Although the judges are not required to reside at the seat of the Court, the President shall render his or her service on a permanent basis (Article 16 of the Statute).

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

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

The Secretariat functions under the direction of a Secretary (Article 14 of the Statute) and a Deputy Secretary (Article 14 of the Statute).

Twenty-one States Parties have accepted the compulsory jurisdiction of the Court. They are: Costa Rica, Peru, Venezuela, Honduras, Ecuador, Argentina, Uruguay, Colombia, Guatemala, Suriname, Panama, Chile, Nicaragua, Paraguay, Bolivia, El Salvador, Haiti, Brazil, Mexico, the Dominican Republic and Barbados.

The status of ratifications of and accessions to the Convention is included at the end of this report.

C. COMPOSITION

The following judges, listed in order of precedence, sat on the Court in 2009:

Cecilia Medina Quiroga (Chile), President
Diego García-Sayán (Peru), Vice President
Sergio García Ramírez (Mexico)
Manuel E. Ventura Robles (Costa Rica)
Leonardo A. Franco (Argentina)
Margarette May Macaulay (Jamaica), and
Rhadys Abreu Blondet (Dominican Republic)

The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

Given that the mandate of Judges Medina Quiroga and García Ramírez concluded at the end of 2009, in accordance with the Court's Statute, during the thirty-ninth regular session of the General Assembly of the Organization of American States the election was held for the new judges of the Court, who will serve a six-year mandate starting in January 2010. The two new judges are: Dr. Alberto Pérez Pérez (Uruguay) and Dr. Eduardo Vio Grossi (Chile). Also, during this General Assembly, Judges Diego García-Sayán (Peru) and Manuel E. Ventura Robles (Costa Rica) were elected for a second period, with a mandate of six years.

During its eighty-fifth regular session, the Court unanimously selected the Peruvian judge, Diego García-Sayán, as President, and the Argentine judge, Leonardo A. Franco, as Vice President, for a two-year period starting on January 1, 2010.

In 2009, nine judges *ad hoc*¹ served on the Court in 12 contentious cases, and during the year, defendant States appointed five judges *ad hoc*² in six contentious cases.

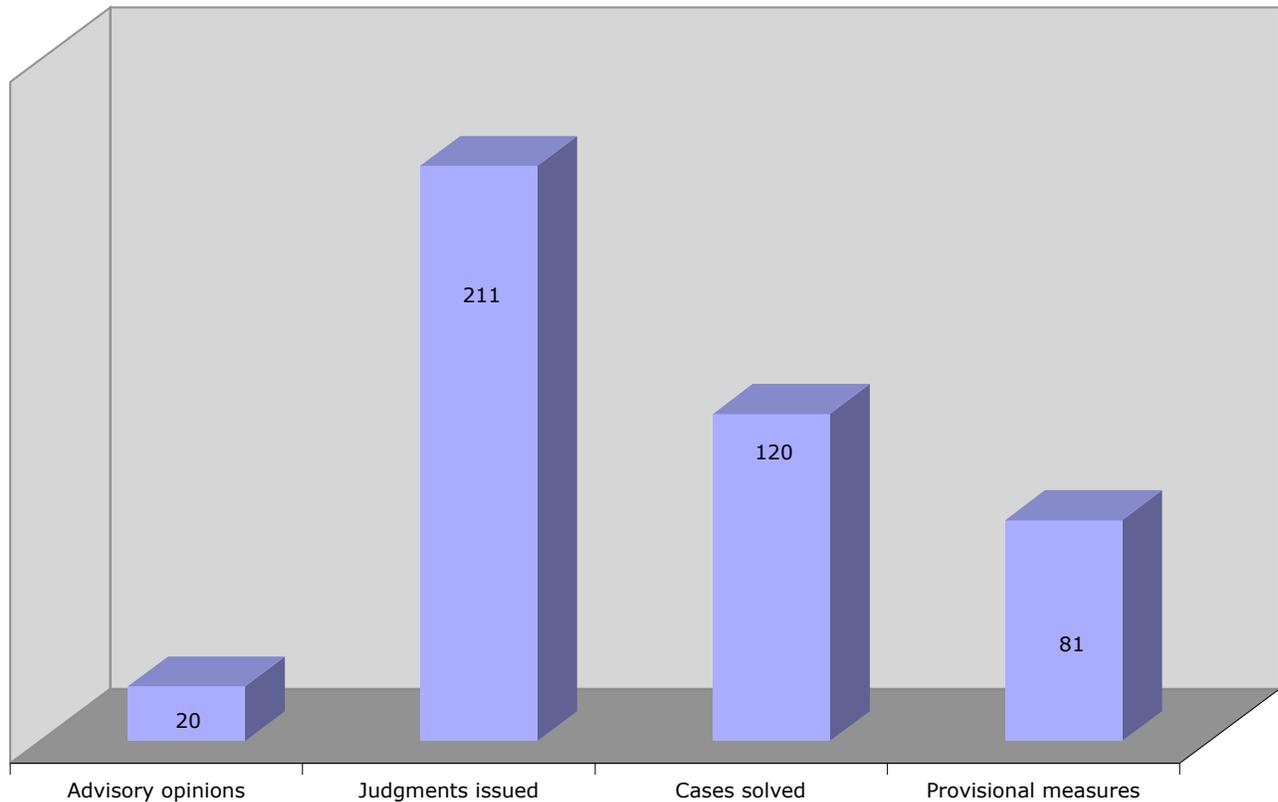
D. JURISDICTION

The Convention confers contentious and advisory functions on the Court. The first function concerns the power to decide cases submitted by the Inter-American Commission or a State Party where it is alleged that a State Party has violated the Convention. Pursuant to this function, the Court must monitor the degree of compliance with its judgments as established in its Rules of Procedure and is also empowered to order provisional measures of protection. The second function concerns the prerogative of OAS Member States to request the Court to interpret the Convention or "other treaties concerning the protection of human rights in the American States." The organs of the OAS mentioned in its Charter may also consult the Court within their specific spheres of competence.

1 The judges *ad hoc* were as follows: Rosa María Álvarez González (Case of González Banda *et al.* "Campo Algodonero" v. Mexico), Einer Elías Biel Morales (Case of Reverón Trujillo v. Venezuela), Pier Paolo Pasceri Scaramuzza (Cases of Perozo *et al.* and Ríos *et al.* v. Venezuela), Víctor Oscar Shiyin García Toma (Cases of Acevedo Buendía "Dismissed and Retired Employees of the Comptroller's Office, and Anzualdo Castro v. Peru), Leo Valladares Lanza (Case of Kawas Fernández v. Honduras), Roberto de Figueiredo Caldas (Cases of Garibaldi, and Escher *et al.* v. Brazil), Ramón Cadena Rámila (Case of the Dos Erres Massacre v. Guatemala), John Andrew Connell QC (Case of Dacosta Cadogan v. Barbados) and Diego Rodríguez Pinzón (Case of Salvador Chiriboga v. Ecuador).

2 The following judges *ad hoc* were appointed in 2009: María Eugenia Solís García (Case of Chitay Nech *et al.* v. Guatemala), Eduardo Ferrer Mac-Gregor Poisot (Case of Cabrera Flores and Montiel García v. Mexico), Augusto Fogel Pedrozo (Case of the Xákmok Kasek Indigenous Community of the Enxet-Language People and its Members v. Paraguay), Alejandro Carlos Espinosa (Cases of Fernández Ortega *et al.*, and Rosendo Cantú *et al.* v. Mexico), and Roberto de Figueiredo Caldas (Case of Gomes Lund *et al.* v. Brazil).

The Inter-American Court of Human Rights (1979 - 2009)



1. Contentious function: this function enables the Court to determine whether a State has incurred international responsibility for the violation of any of the rights embodied or established in the American Convention on Human Rights, because it has failed to comply with its obligation to respect and ensure those rights. The contentious jurisdiction of the Court is regulated by Article 62 of the American Convention which establishes:

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

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

Article 63(1) of the Convention contains the following provision concerning the Court’s judgments:

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

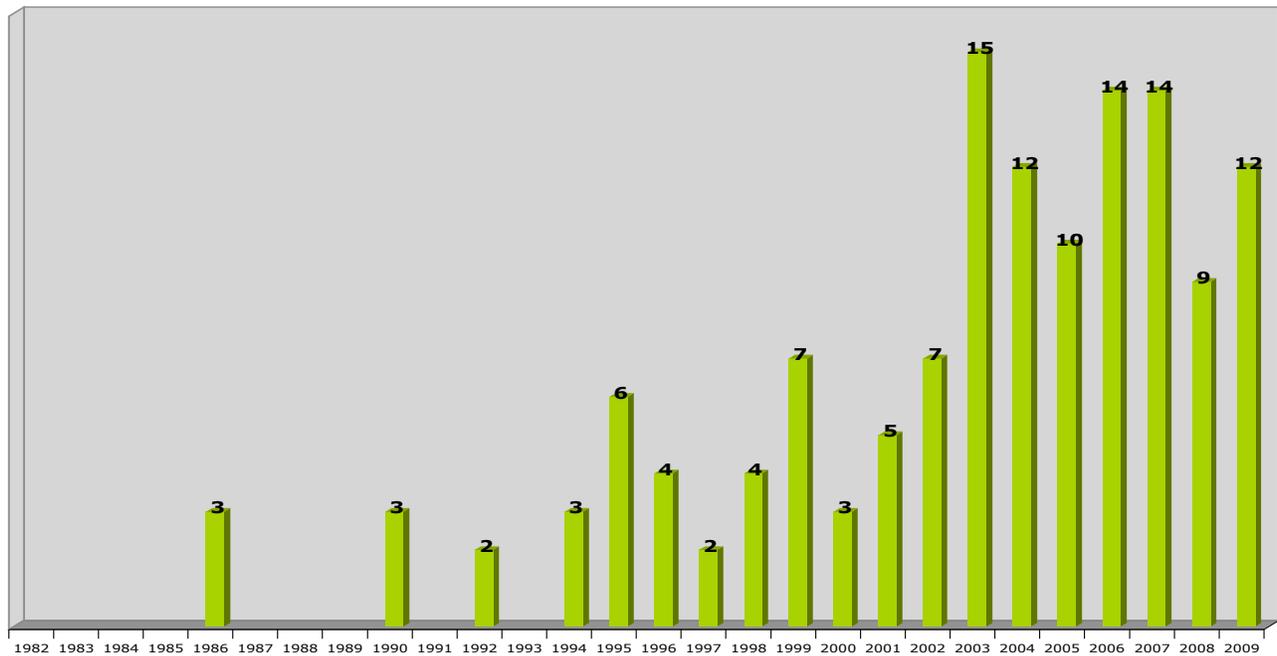
Paragraph 2 of Article 68 of the Convention provides that: “[t]hat part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the State.”

The judgments handed down by the Court are “final and not subject to appeal.” In “case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment” (Article 67 of the Convention). The States Parties “undertake to comply with the judgment of the Court in any case to which they are parties” (Article 68 of the Convention).

Twelve contentious cases were lodged before the Court during the current year, and it delivered 19 judgments.³ In 13 judgments it ruled on preliminary objections, merits, reparations and costs together; in two others it ruled on merits and the corresponding reparations and, in four on interpretation of judgment. Thus, the Court decided 15 cases in their entirety, by adopting a final decision on the preliminary objections, merits, reparations and costs in relation to all the points in dispute contained in the application.

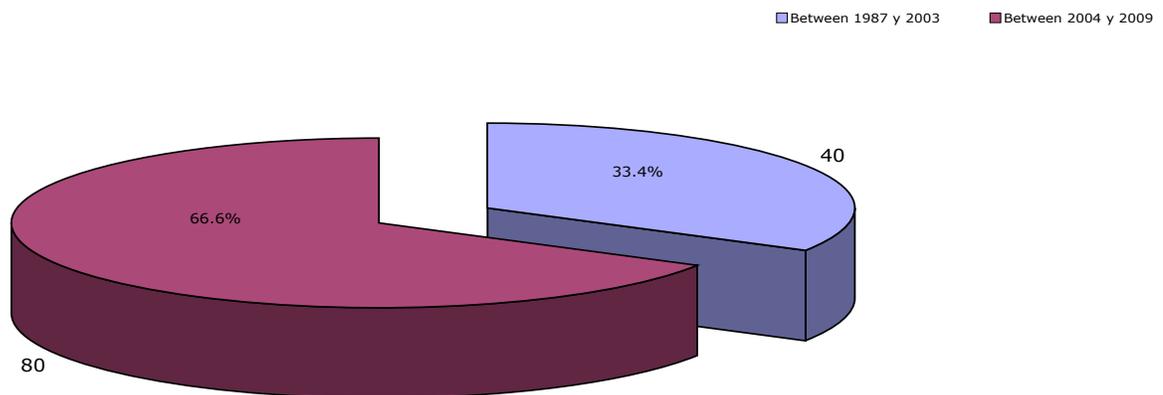
3 The Court delivered judgment in the following cases: *Tristán Donoso v. Panama* (preliminary objection, merits, reparations and costs), *Ríos et al. v. Venezuela* (preliminary objections, merits and reparations), *Perozo et al. v. Venezuela* (preliminary objections, merits, reparations and costs), *Kawas Fernández v. Honduras* (merits, reparations and costs), *Reverón Trujillo v. Venezuela* (preliminary objection, merits, reparations and costs), *Acevedo Buendía et al. (“Dismissed and Retired Employees of the Comptroller’s Office”) v. Peru*, *Ticona Estrada et al. v. Bolivia* (interpretation of the judgment on merits, reparations and costs), *Escher et al. v. Brazil* (preliminary objections, merits, reparations and costs), *Valle Jaramillo et al. v. Colombia* (interpretation of the judgment on merits, reparations and costs), *Anzualdo Castro v. Peru* (preliminary objection, merits, reparations and costs), *Garibaldi v. Brazil* (preliminary objections, merits, reparations and costs), *Dacosta Cadogan v. Barbados* (preliminary objections, merits, reparations and costs), *González et al. (“Campo Algodonero”) v. Mexico* (preliminary objection, merits, reparations and costs), *Barreto Leiva v. Venezuela* (merits, reparations and costs), *Radilla Pacheco v. Mexico* (preliminary objections, merits, reparations and costs), *Usón Ramírez v. Venezuela* (preliminary objection, merits, reparations and costs), *Dos Erres Massacre v. Guatemala* (preliminary objection, merits, reparations and costs), *Escher et al. v. Brazil* (interpretation of the judgment on preliminary objections, merits, reparations and costs), and *Acevedo Buendía et al. (“Dismissed and Retired Employees of the Comptroller’s Office”) v. Peru* (interpretation of the judgment on preliminary objection, merits, reparations and costs).

Submission of contentious cases



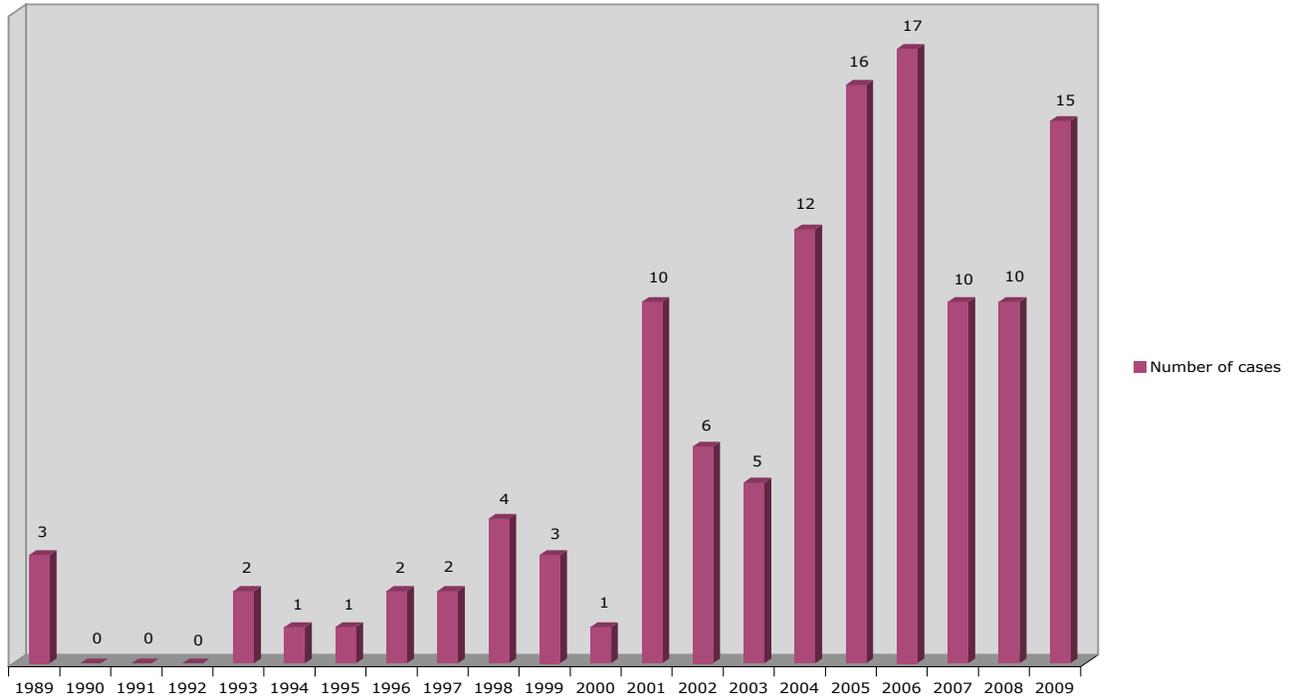
Since its creation, the Court has decided 120 cases; of these, 80 correspond to the period from 2004 to 2009.

Solution of contentious cases

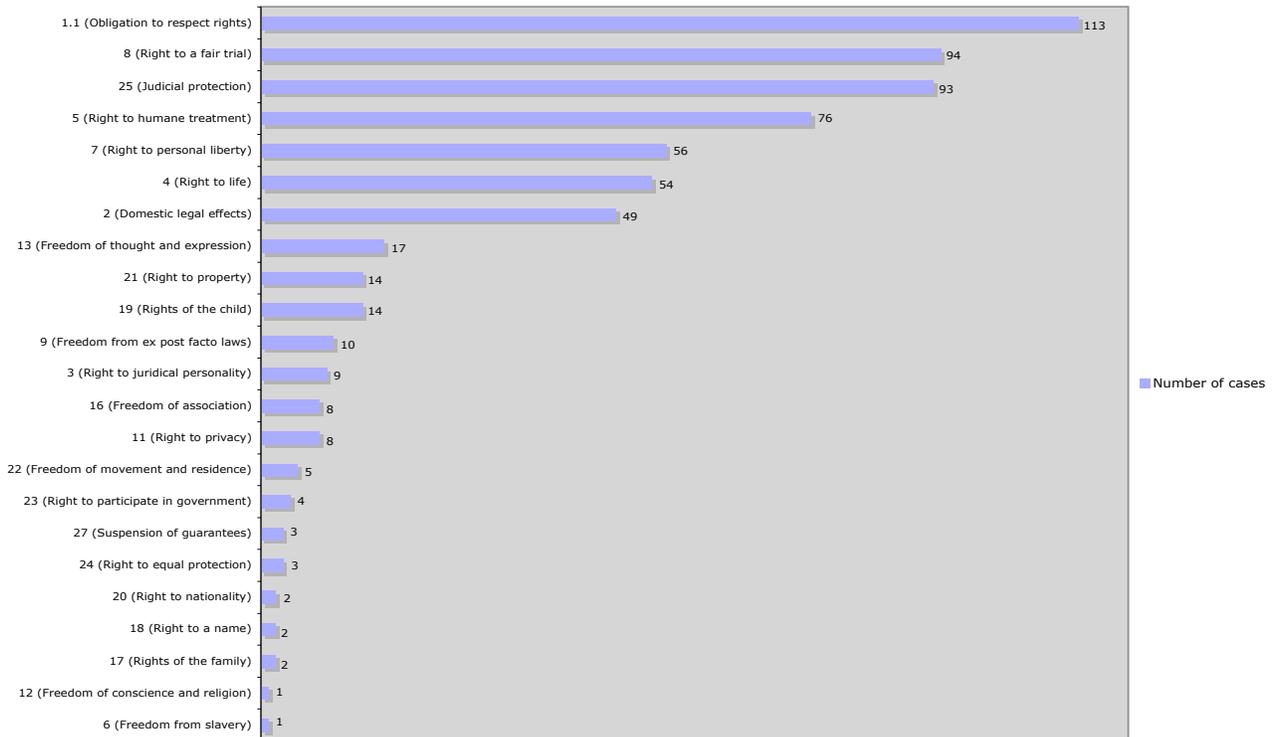


- Includes the cases solved on preliminary objections, merits and reparations, independently of the posterior stage of monitoring compliance with judgment.

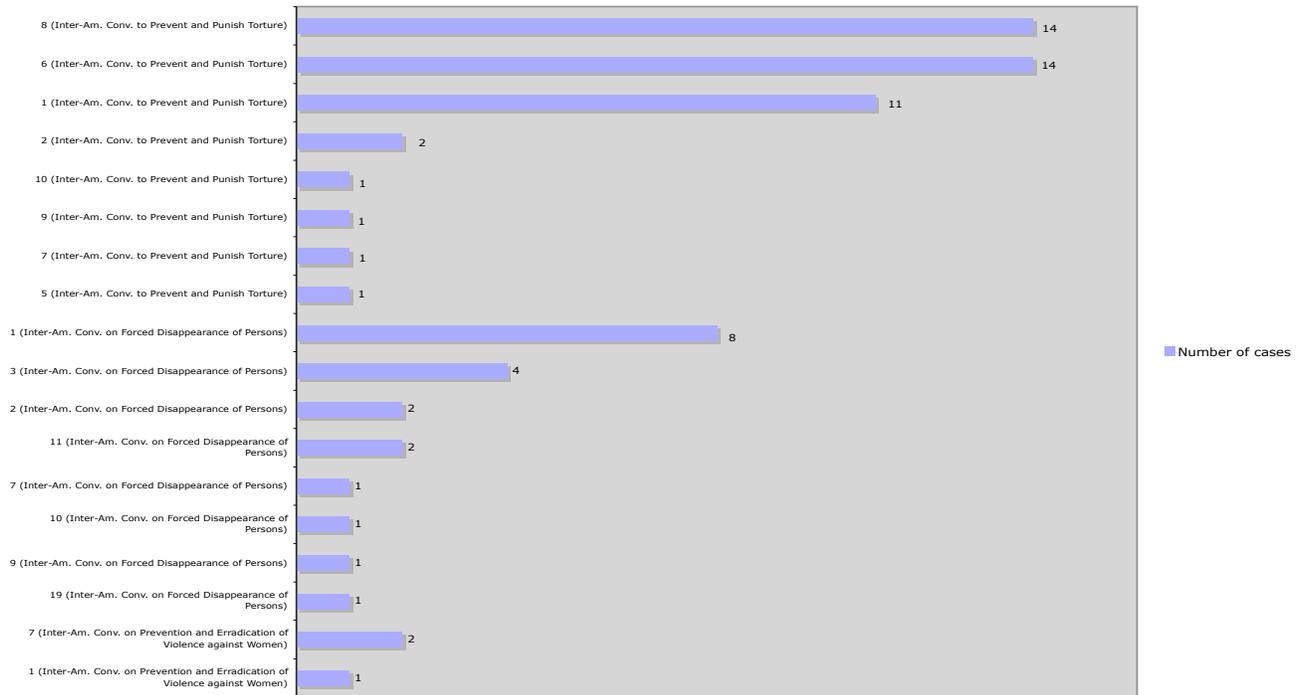
Solution of contentious cases by year



Articles of the A.C.H.R. which violation was declared in judgment of the Court

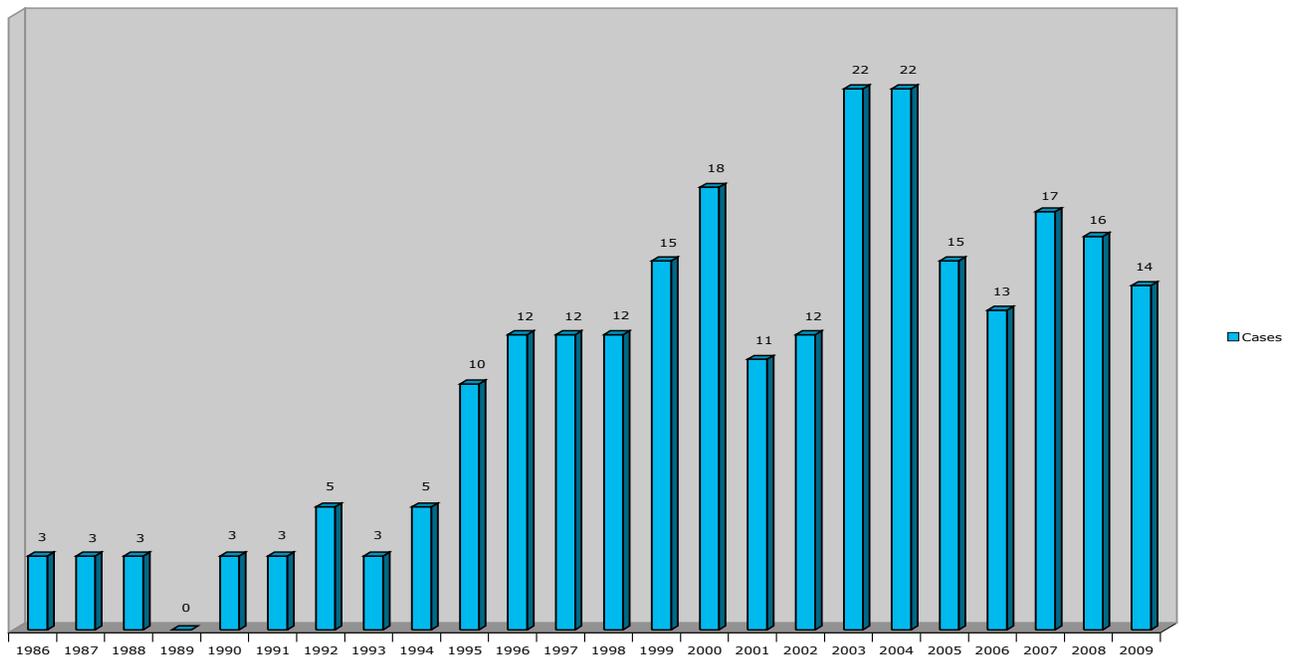


Articles of other treaties which violation was declared in judgment of the Court



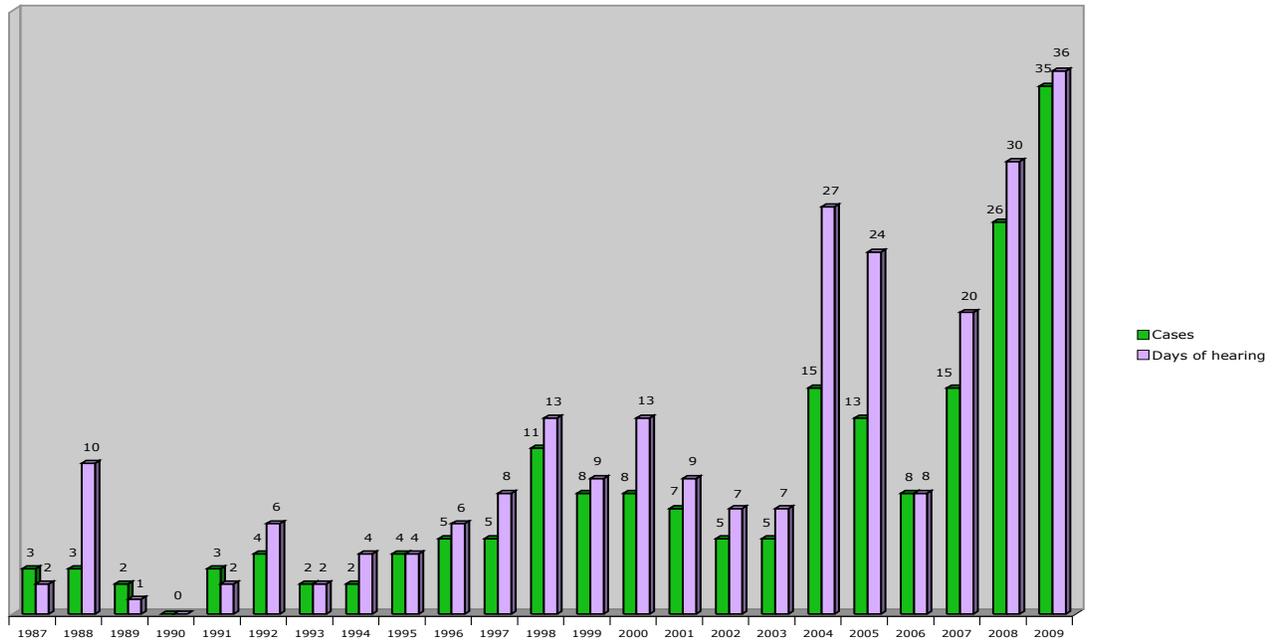
Currently, the Court is processing 104 cases that are at the stage of monitoring compliance with judgment, nine at the initial processing stage, four at the stage of preliminary objections and possible merits, reparations and costs, and one at the state of reparations and costs.

Contentious cases without judgment at the end of the mentioned years



During 2009, the Court held 11 public hearings and 24 private hearings on contentious cases.

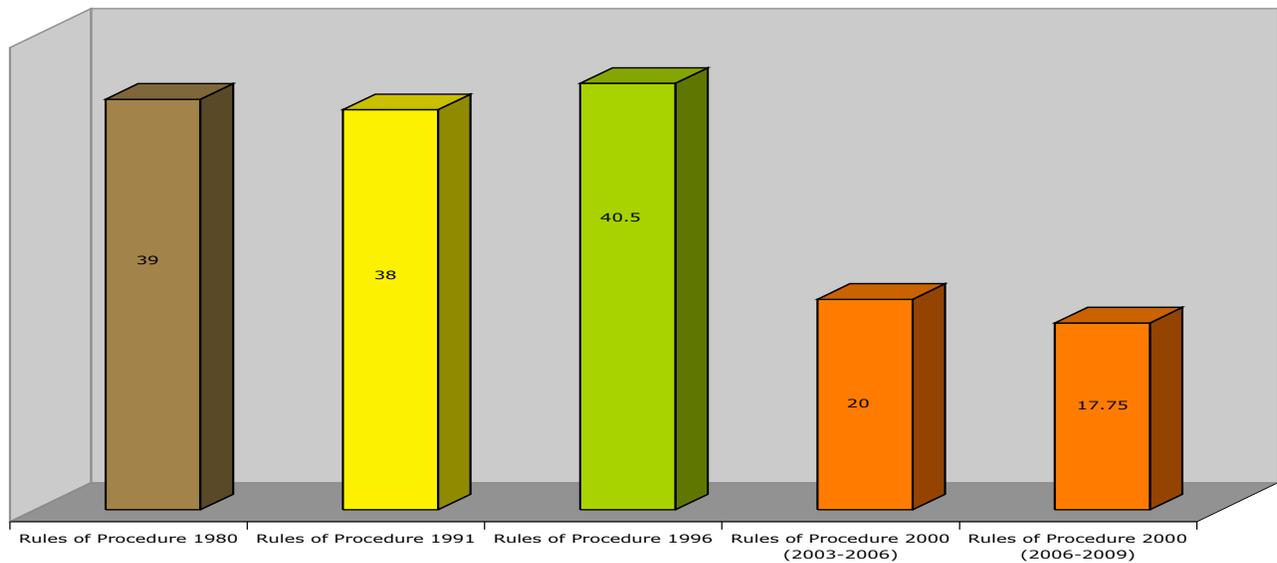
Public hearings on contentious cases



* On the year 2008 was carried out one hearing to receive requested evidence in one particular case. Also, since the year 2007 the Court initiated the practice of celebrating private hearings of monitoring compliance with judgment, which are included on this statistic.

Between 2006 and 2009, the average length of time for processing a contentious case before the Court was 17.75 months, calculated from the date on which the case is submitted to the Court until the date that the Court delivers the judgment on reparations.

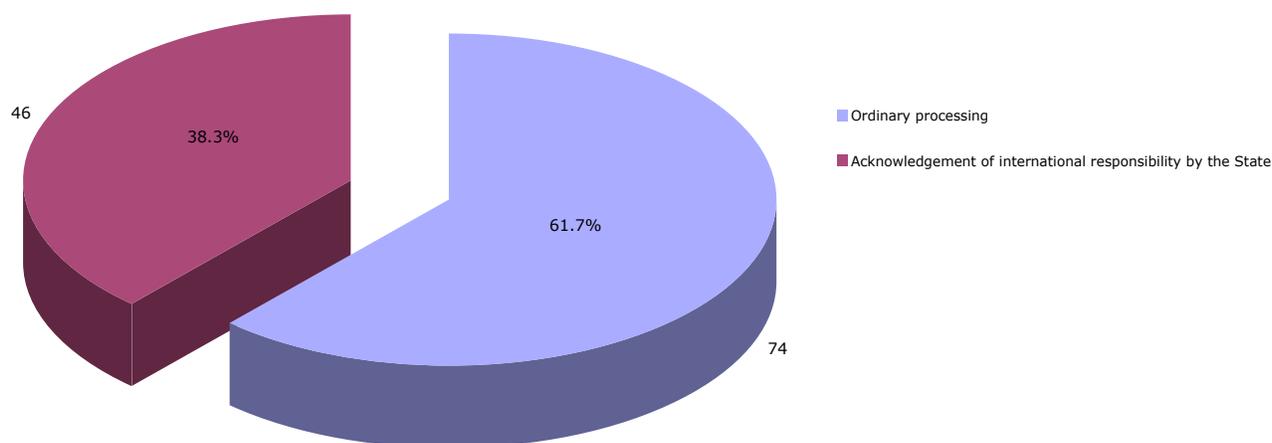
Average time of the proceeding on contentious cases



- The average time of the proceeding has been counted since the presentation of the application, until the date of the judgment on reparations (or the judgment that includes the pronouncement on reparations).

During 2009, there were four partial or total acknowledgements of international responsibility by defendant States;⁴ added to the Court's cumulative total, this represents 38.3% of all the cases heard by the Court.

Acquiescence or acknowledgement of international responsibility



1.a Monitoring compliance with judgment

Monitoring compliance with the Court's decisions implies that it must first request information from the State on the actions taken to comply with the said decisions, 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 it ordered, provide guidance for the State's actions to that effect, and fulfill its obligation to inform the General Assembly, in the terms of Article 65 of the Convention. Also, when pertinent, the Court may convene the State and the representatives of the victims to a hearing to monitor compliance with its decisions and, in the course of this hearing, take note of the opinion of the Commission. The procedure for monitoring compliance with the Court's judgments and other decisions is regulated by Article 69 of the Court's new Rules of Procedure.

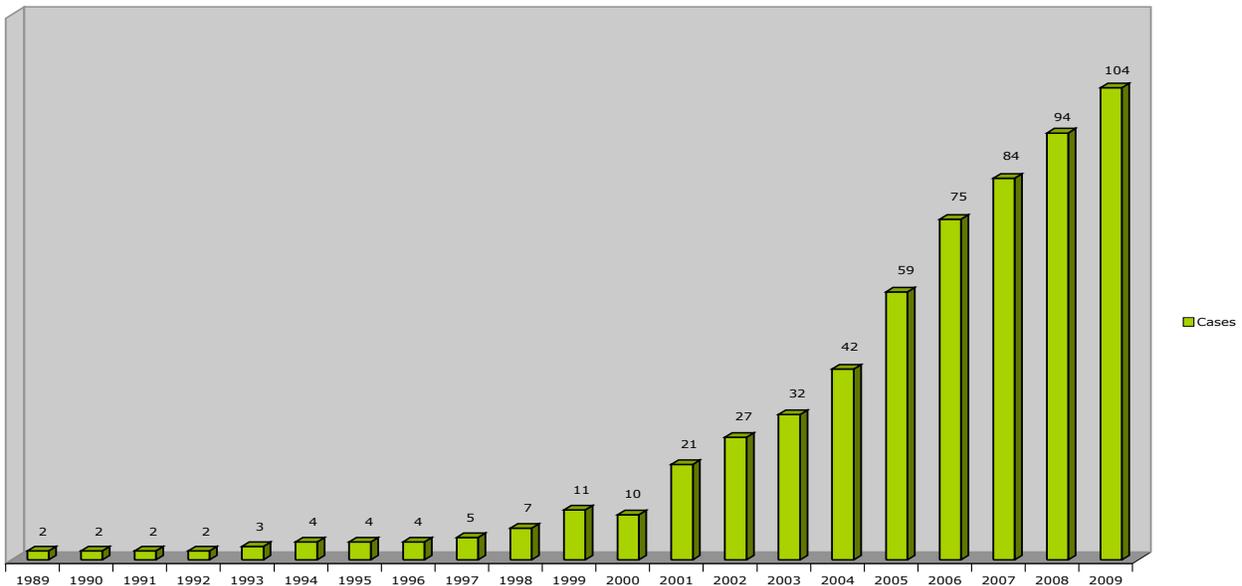
In light of the above, and exercising the powers inherent in its jurisdictional function of monitoring compliance with its judgments, the Court issued 43 orders,⁵

4 Partial or total acknowledgements of international responsibility by the defendant State occurred in the following cases: *González et al. ("Campo Algodonero") v. Mexico*, *Kawas Fernández v. Honduras*, the *Dos Erres Massacre v. Guatemala*, and *Radilla Pacheco v. Mexico*.

5 Cases: *Bámaca Velásquez v. Guatemala*, "Street Children" (*Villagrán Morales et al.*) *v. Guatemala*, *Blake v. Guatemala*, *Maritza Urrutia v. Guatemala*, *Neira Alegría et al. v. Peru*, *Baldeón García v. Peru*, *Castillo Páez v.*

and held one public hearing⁶ and 24 private hearings on monitoring compliance with judgment.⁷

Contentious cases on stage of monitoring compliance with judgment



- It is considered that a case is in the stage of monitoring compliance with judgment when the Court has already solved the case and some extreme of the judgment is pending compliance, by the condemned State. Only when the Court considers that the State has complied with each and every of the obligations ordered in the judgment, it orders the archive of the case.

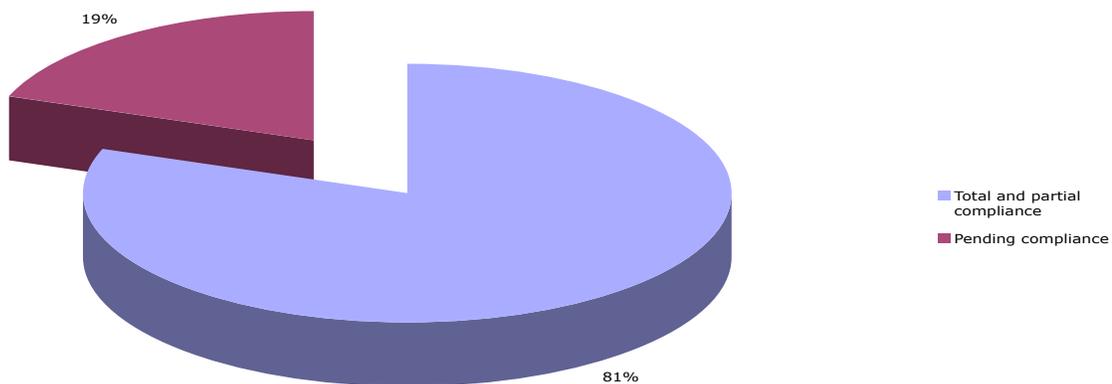
Peru, Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Miguel Castro Castro Prison v. Peru, Cantoral Huamani and García Santa Cruz v. Peru, Chaparro Álvarez and Lapo Iñiguez v. Ecuador, Gutiérrez Soler v. Colombia, Gómez Palomino v. Peru, Baena Ricardo *et al.* v. Panama, Plan de Sánchez Massacre v. Guatemala, Castañeda Gutman v. Mexico, Tibi v. Ecuador, Carpio Nicolle *et al.* v. Guatemala, Cantos v. Argentina, Caracazo v. Venezuela, Blanco Romero *et al.* v. Venezuela, Ituango Massacres v. Colombia, 19 Tradesmen v. Colombia, Mapiripán Massacre v. Colombia, Herrera Ulloa v. Costa Rica, Pueblo Bello Massacre v. Colombia, Caracazo v. Venezuela, Cantoral Huamani and García Santa Cruz v. Peru, Palamara Iribarne v. Chile, Ximenes Lopes v. Brazil, Zambrano Vélez *et al.* v. Ecuador, La Cantuta v. Peru, Cantoral Benavides v. Peru, Dismissed Congressional Employees (Aguado Alfaro *et al.*) v. Peru, Goiburú *et al.* v. Paraguay, Caballero Delgado and Santana v. Colombia, Trujillo Oroza v. Bolivia, Molina Thiessen v. Guatemala, Myrna Mack Chang v. Guatemala, Ivcher Bronstein v. Peru, Montero Aranguren *et al.* (Catia Detention Center) v. Venezuela, Children's Rehabilitation Institute v. Paraguay, and Five Pensioners v. Peru. Regarding the case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, the Court decided to conclude its monitoring of the case, because the State had complied fully with the judgment; consequently, it ordered that the case be closed.

6 Case: Sawhoyamaya Indigenous Community v. Paraguay.

7 Cases: Mapiripán Massacre v. Colombia, Five Pensioners v. Peru, 19 Tradesmen v. Colombia, Carpio Nicolle *et al.* v. Guatemala, Palamara Iribarne v. Chile, Pueblo Bello Massacre v. Colombia, Gutiérrez Soler v. Colombia, Bámaca Velásquez v. Guatemala, "Street Children" (Villagrán Morales *et al.*) v. Guatemala, Ivcher Bronstein v. Peru, Blanco Romero *et al.* v. Venezuela, Suárez Rosero v. Ecuador, Caracazo v. Venezuela, Zambrano Vélez v. Ecuador, Juan Humberto Sánchez v. Honduras, Yean and Bosico Girls v. Dominican Republic, Herrera Ulloa v. Costa Rica, Dismissed Congressional Employees v. Peru, "Children's Rehabilitation Institute" v. Paraguay, Montero Aranguren *et al.* (Catia Detention Center) v. Venezuela, Myrna Mack Chang v. Guatemala, Molina Thiessen v. Guatemala, Goiburú *et al.* v. Paraguay and Trujillo Oroza v. Bolivia.

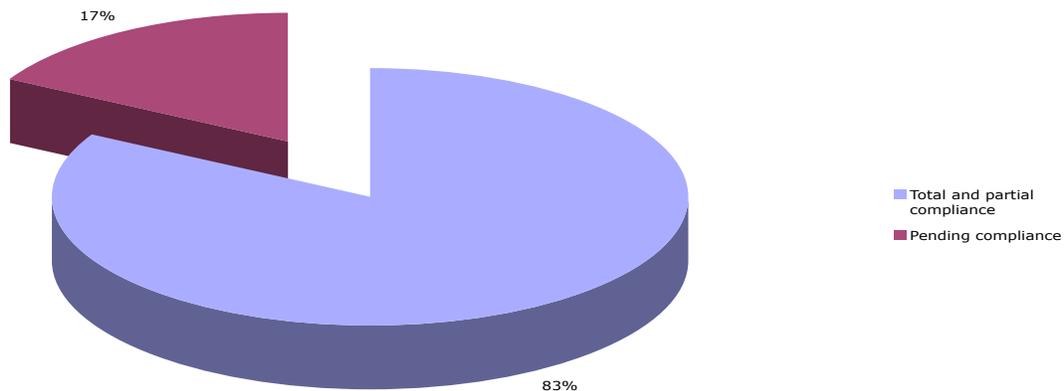
Following a study presented in 2008, the Court has constantly been providing information on the status of compliance with the pecuniary reparations it orders. In this regard, 81% of the costs and expenses ordered have been complied with totally or partially, and 83% of the compensation ordered has been complied with totally or partially.

State of compliance of the costs and expenses ordered



* This chart takes into account 67 contentious cases that were matter of study at the time this statistic was created.

State of compliance of the indemnizations ordered



* This chart takes into account 71 contentious cases that were matter of study at the time this statistic was created.

The Court submits a report on its work to the General Assembly at each regular session, in which it “specif[ies], in particular, the cases in which a State has not complied with its judgments” (Article 65 of the Convention).

2. Advisory function: this function enables the Court to respond to consultations by OAS Member States or the Organization’s organs, in the terms of Article 64 of the Convention, which stipulates:

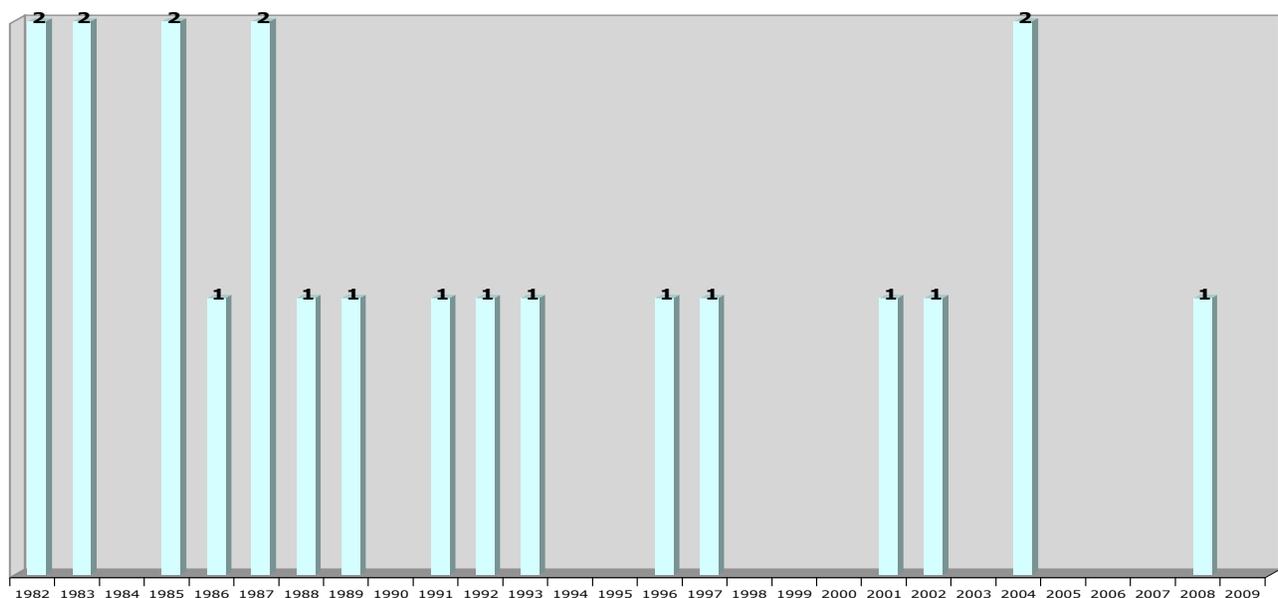
1. The Member States of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of Human Rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.

2. The Court, at the request of a Member State of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

The right to request an advisory opinion is not limited to the States Parties to the Convention. Any OAS Member State may request such an opinion. The advisory jurisdiction of the Court enhances the Organization’s capacity to deal with matters arising from the application of the Convention, because it enables the organs of the OAS to consult the Court, within their spheres of competence.

No requests for an advisory opinion were submitted to the consideration of the Court during the year, and the Court delivered one ruling in this regard.⁸

Submission of advisory opinions



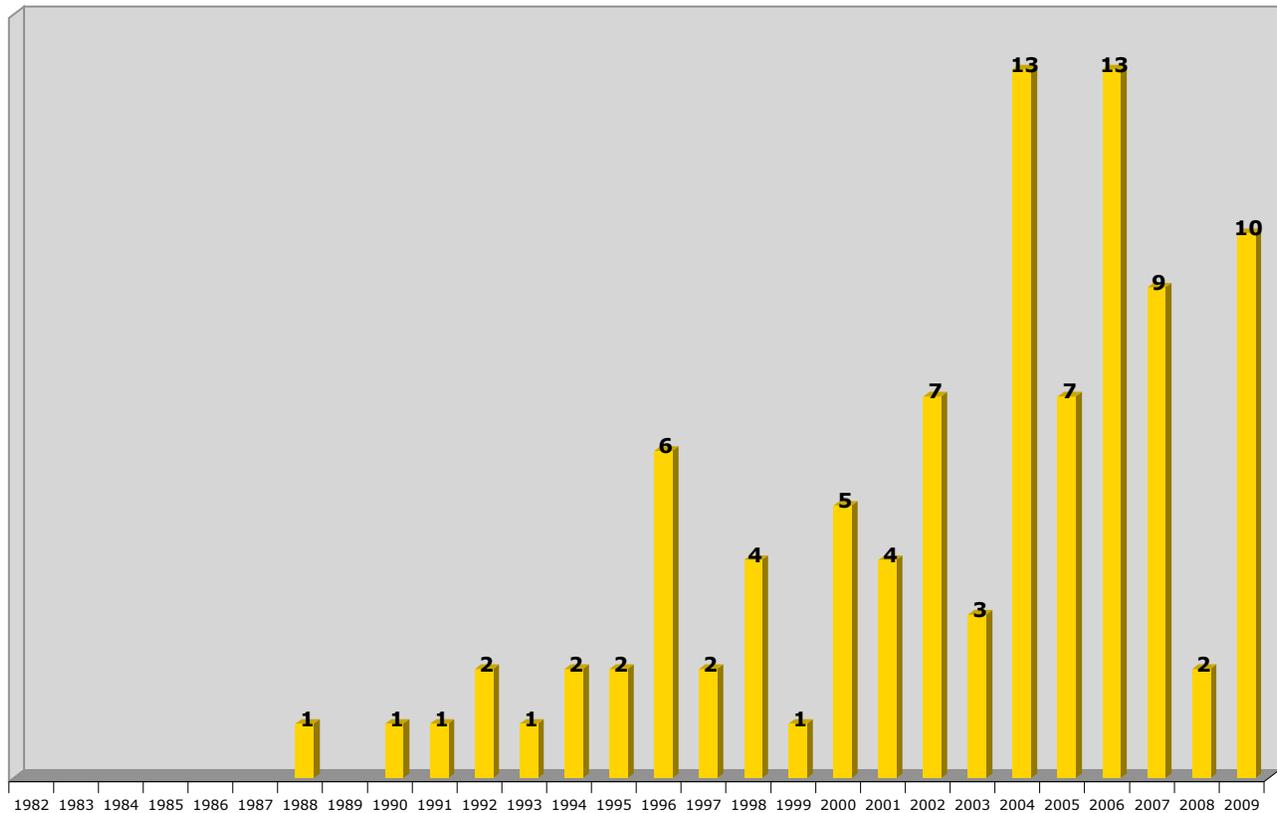
8 ICourtHR, *Article 55 of the American Convention on Human Rights*. Advisory Opinion OC-20/09 of September 29, 2009. Series A No. 20.

3. Provisional measures: the Court may adopt any measures it deems pertinent in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, both in cases which the Court is hearing and in cases not yet submitted to it at the request of the Inter-American Commission. Article 63(2) of the Convention stipulates 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.

Ten requests for provisional measures were submitted to the Court's consideration during the year; of these, six were adopted, two rejected and two are pending a decision. In addition, five provisional measures were lifted entirely⁹ and two partially.¹⁰

Submission of provisional measures

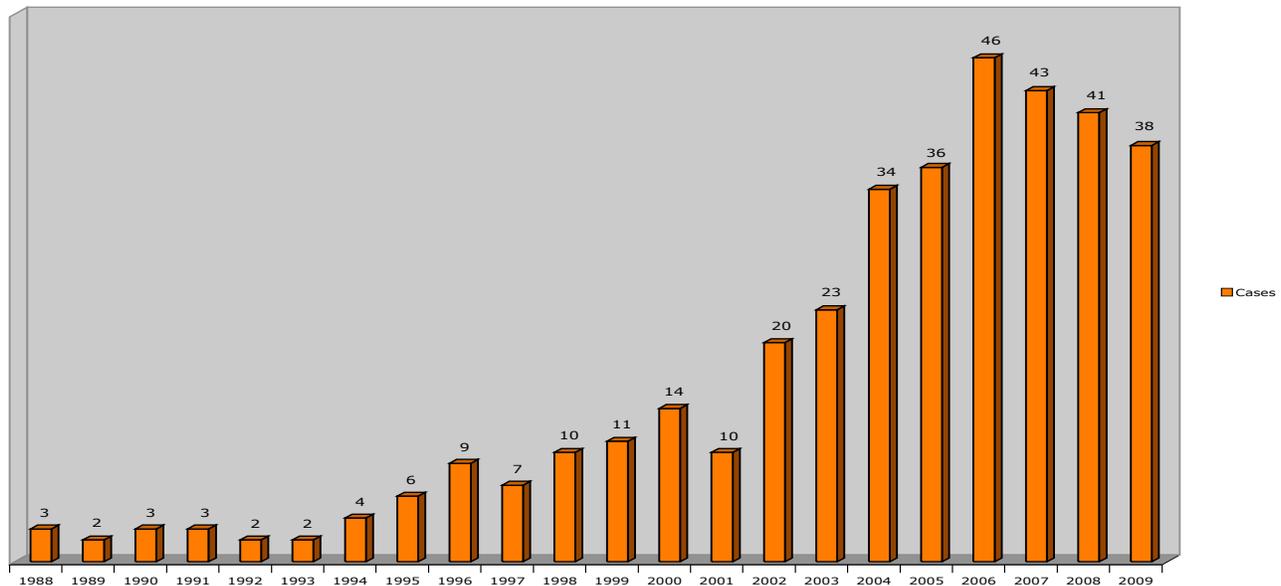


9 Provisional measures: case of *López Álvarez et al.* with regard to Honduras, matter of *Carlos Nieto Palma et al.* with regard to Venezuela, case of the *Gómez Paquiyauri Brothers* with regard to Peru, case of the *Members of the Psychosocial Action and Community Studies Team (ECAP) Plan de Sánchez Massacre* with regard to Guatemala, and matter of *Liliana Ortega* with regard to Venezuela.

10 Provisional measures: case of *Mack et al.* with regard to Guatemala and matter of *Dottin et al.* (previously known as *James et al.*) with regard to Trinidad and Tobago.

Currently, 38 provisional measures are being monitored.

Active provisional measures



In exercise of its power to monitor the implementation of the provisional measures it orders, the Court issued 21 orders to monitor the implementation of provisional measures,¹¹ and held three public hearings,¹² and six private hearings in this regard.¹³

11 Provisional measures: case of *Bámaca Velásquez* with regard to Guatemala, matter of *Luis Uzcátegui* with regard to Venezuela, case of *Mack et al.* with regard to Guatemala, case of *López Álvarez et al.* with regard to Honduras, matter of *Carlos Nieto Palma et al.* with regard to Venezuela, case of the *Gómez Paquiyauri Brothers* with regard to Peru, matter of the *Guatemalan Forensic Anthropology Foundation* with regard to Guatemala, matter of the *Kankuamo Indigenous People* with regard to Colombia, matter of *Dottin et al.* (previously known as *James et al.*) with regard to Trinidad and Tobago, case of *Carpio Nicolle et al.* with regard to Guatemala, *19 Tradesmen* with regard to Colombia, case of the *Members of the Psychosocial Action and Community Studies Team (ECAP) Plan de Sánchez Massacre* with regard to Guatemala, case of *Gutiérrez Soler* with regard to Colombia, matter of *Liliana Ortega* with regard to Venezuela, case of *Mack et al.* with regard to Guatemala, matter of the *Communities of the Jiguamiandó and of the Curbaradó* with regard to Colombia, matter of the *Monagas Judicial Detention Center ("La Pica")* with regard to Venezuela, *Regional Penitentiary Center Yare I and Yare II (Yare Prison)* with regard to Venezuela, *Central Occidental Region Penitentiary Center (Uribana Prison)* with regard to Venezuela, *Capital Judicial Detention Center El Rodeo I and El Rodeo II* with regard to Venezuela, and matter of the *Urso Branco Prison* with regard to Brazil.

12 Provisional measures: matter of *Haitians and Dominicans of Haitian Origin in the Dominican Republic* with regard to the Dominican Republic, matter of the *Venezuelan Prisons (Monagas Judicial Detention Center ("La Pica"), Capital Regional Penitentiary Center Yare I and Yare II (Yare Prison), Central Occidental Region Penitentiary Center (Uribana Prison), and Capital Judicial Detention Center El Rodeo I and El Rodeo II)* with regard to Venezuela, and matter of the *Urso Branco prison* with regard to Brazil.

13 Provisional measures: case of the *Mapiripán Massacre* with regard to Colombia, case of the *19 Tradesmen* with regard to Colombia, case of *Carpio Nicolle et al.* with regard to Guatemala, case of *Gutiérrez Soler* with regard to Colombia, case of *Bámaca Velásquez* with regard to Guatemala, and case of *Mack et al.* with regard to Guatemala.

E. NEW RULES OF PROCEDURE

During its eighty-fifth regular session held from November 16 to 28, 2009, the Inter-American Court issued its new Rules of Procedure, which are the result of constructive, participative and transparent communication between the Court and the different actors and users of the inter-American human rights system.

These new Rules of Procedure were developed in the context of the second phase of dialogue and reflection that the Inter-American Court has been undertaking for some time with the different actors and users of the inter-American system.¹⁴ This is reflected in a process of consultation implemented by inviting all the Member States and any person or institution that wished to participate, using different media and mechanisms available to all. The dialogue and coordination with the Inter-American Commission on Human Rights was particularly relevant.

The principal reform introduced by the new Rules of Procedure relates to the Commission's role in the proceedings before the Court. In this regard, the different actors of the system that took part in the consultation observed that it was advisable to modify some aspects of the Commission's participation in the proceedings before the Court in order to give greater protagonism to the litigation between the representatives of the victims or alleged victims and the defendant State. In this way, the role of the Commission is more that of an organ of the inter-America system, thus enhancing the procedural balance between the parties.

Those consulted agreed that the proceedings before the Court should be initiated by the presentation of the report referred to in Article 50 of the Convention. Consequently, under Article 35 of the current Rules of Procedure, the Commission no longer initiates the proceedings with the presentation of an application that differs from the report that the States are already aware of, but rather by forwarding the report on merits issued in accordance with Article 50 of the Convention. When sending this report, the Commission must specify the grounds based on which it submits the case to the Court. In addition, in contrast to the previous Rules of Procedure, the Commission may not propose witnesses or the testimony of presumed victims and, according to the said article, only in certain circumstances may it propose expert witnesses. This prerogative is reserved to the States and to the representatives of the alleged victims. Furthermore, in cases in which a hearing is held, the Commission shall initiate this by explaining the reasons that led it to submit the case. The representatives of the alleged victims and of the State may question the witnesses and expert witnesses. The Commission may question the expert witnesses in the circumstances established Article 52. At the end of the oral arguments stage regulated in Article 51(7), the Commission presents its final observations as established in subparagraph 8 of this article. It should be noted that this new procedure was discussed fully with the Commission.

In accordance with Advisory Opinion OC-20/09 on Article 55 of the American Convention on Human Rights, the Court modified its Rules of Procedure to include a provision in Article 19 establishing that the judges may not take part in hearing and deliberating on an individual petition submitted to the Court when they are nationals of the defendant State, and also a provision in Article 20 authorizing States to appoint judges *ad hoc* solely in cases arising from inter-State communications.

¹⁴ The first phase took place from November 6, 2008, to January 19, 2009, and culminated in the amendments to the Rules of Procedure agreed during the eighty-second regular session held from January 19 to 31, 2009.

If any presumed victims do not have legal representation in the proceedings before the Court, Article 37 of the new Rules of Procedure establishes that the Court may appoint, on its own motion, a defender to represent them during the processing of their case (the "Inter-American Defender"). The work of the Inter-American Defender will be supported by the "Legal Assistance Fund of the Inter-American Human Rights System." Under the former Rules of Procedure, the Commission assumed the representation of presumed victims without legal representation. The new provision ensures that all presumed victims have a lawyer to defend their interests before the Court, and means that they are not prevented from having legal counsel for financial reasons. Moreover, it eliminates the dual role of the Commission before the Court: as representative of victims and organ of the system.

After considering the comments received in response to the consultation on the appointment of a common intervener when there are several representatives of the presumed victims or their next of kin, which underscored the difficulties that this practice involves for the victims, the Court decided, in Article 25 of the Rules of Procedure, to authorize the representatives of the presumed victims who are unable to reach agreement on the appointment of a common intervener to designate up to three representatives to act as common interveners. Furthermore, in order to safeguard the procedural balance of the parties, in these circumstances, this article authorizes the President of the Court to determine different time frames to those established in the Rules of Procedure for the State's answer, as well as the time allocated to the State and the presumed victims or their representatives for their participation in the public hearings.

To facilitate communication between the Court and the different actors before it, and to streamline the proceedings, the amended Rules of Procedure authorize the use of the new technologies. Thus, Article 28 regulates the transmission of briefs by electronic means, and establishes that a printed copy need not be sent if the electronic version bears the author's signature. This also applies to the *amicus curiae* briefs submitted to the Court, as established in Article 44. In addition, Article 33 allows the Court to transmit documents and notify the parties exclusively by electronic means. Lastly, Article 51(11) authorizes the reception of statements by means of electronic audio-visual means.

The elements that the briefs with pleadings, motions and evidence of the presumed victims or their representatives and the State's answer should contain are specified in Articles 40 and 41, respectively.

The new Rules of Procedure also regulate the submission of evidence after the time limit has expired (Article 57(2)), as well as any evidence that is presented incomplete or illegible, and the consequences (Article 59). Similarly, they regulate the causes for the disqualification of witnesses and expert witnesses (Articles 48 and 49); the proposal, summoning and appearance of deponents (Article 50), and the conduct of the hearings before the Court (Article 51).

Regarding testimony proposed by affidavit, the actors of the system considered that the Rules of Procedure should establish the possibility of questioning the deponents offered by the other parties. In this regard, Article 50(5) permits the parties to submit written questions to these deponents. This new practice, which was not recognized in the previous Rules of Procedure, improves the application of the adversarial principle in evidence of this nature.

The Rules of Procedure encompass the Court's different procedural practices, such as the request for the definitive list of witnesses (Article 46); the presentation of the final written



arguments by the presumed victims or their representatives and the respondent State, and of final observations by the Commission if it so wishes (Article 56), and the joinder of provisional measures or monitoring compliance with the judgment, when the requirements established in Article 30 are fulfilled. The intention of this measure is to enhance the principles of procedural economy and promptness.

In relation to the protection of those who appear before the Court, Article 53 extends this protection to the legal advisers or representatives of the presumed victims as a result of the legal defense they provide before the Court. The previous Rules of Procedure merely referred to the protection of the presumed victims, and the witnesses and expert witnesses.

The new Rules of Procedure include provisions that allow the Court, on its own motion or at the request of any party to the case, to rectify obvious mistakes, clerical errors, or errors in calculation in its judgments or orders, as established in Article 76.

In the case of provisional measures, Article 27 indicates that when such measures are requested within the framework of a contentious case that the Court is hearing, they must be related to the purpose of the case.

Lastly, contrary to the previous Rules of Procedure, the new rules regulate the submission of cases by the States in accordance with Article 61 of the American Convention.

F. LEGAL ASSISTANCE FUND OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

The purpose of the Legal Assistance Fund of the Inter-American Human Rights System is to facilitate the access to the inter-American human rights system of those individuals who, currently, do not have sufficient resources to file their case before the system.

For several years the Court has been indicating that an essential step for the effective enhancement of the inter-American human rights system was the regulation and entry into force of an assistance fund for victims before the Court. The fund is designed to assist only those victims who do not have sufficient financial resources to appear before the Court with appropriate defense counsel. At present, the Inter-American Commission provides an important part of this financial assistance to the victims for their appearance before the Court. While refining the Commission's role before the Court, it has also been necessary to think about how to finance this assistance without the respective help of the Commission. Hence, an urgent need arose to create and regulate a fund for victims before the Court.

Anyone who does not have the financial resources to cover the expenses arising from a proceeding before the Court and, once the case has been submitted to the Court, may expressly request to have recourse to the victims' fund – when it is in operation – to obtain assistance for the litigation expenses and, to this end, must prove his or her financial need. The Court will authorize presumed victims to use the victims' fund.

In 2008, during its thirty-eighth regular session, the OAS General Assembly issued Resolution AG/RES. 2426 (XXXVIII-O/08) in which it decided that the Secretary General should establish this Fund, resolving:

1. To request the Secretary General to establish a specific fund for voluntary contributions to be called the "Legal Assistance Fund of the Inter-American Human Rights System."
2. To agree that:
 - (a) The purpose of the Legal Assistance Fund of the Inter-American Human Rights System is to facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system;
 - (b) Financial management of the Legal Assistance Fund of the Inter-American Human Rights System shall be entrusted to the General Secretariat of the Organization of American States (OAS), and its financing and operations shall be governed by rules of procedure adopted by the Permanent Council, which shall contain clear accountability procedures;
 - (c) Approval of legal assistance shall be decided by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (IACHR), as the case may be, in accordance with regulations that each of these institutions shall issue to that end, and
 - (d) The Legal Assistance Fund of the Inter-American Human Rights System shall have two separate accounts, named (i) Inter-American Court of Human Rights and (ii) Inter-American Commission on Human Rights. Contributions made to each of these two bodies in the system shall be deposited in the appropriate account. Contributions made without specifying which body they are for shall be construed as contributions to be split equally between the two.
3. To invite member states, permanent observers, and other donors, as defined by Article 74 of the General Standards to Govern the Operations of the General Secretariat and other rules and regulations of the Organization, to contribute to the Legal Assistance Fund of the Inter-American Human Rights System, as an effective demonstration of their commitment to the protection of human rights in the Hemisphere.
4. To urge the international financial agencies to contribute to the Legal Assistance Fund of the Inter-American Human Rights System as a demonstration of their commitment to democracy, development, and human rights in the Hemisphere, or to work together to obtain such contributions.
5. To recall that the operation of the Legal Assistance Fund of the Inter-American Human Rights System does not exonerate the OAS from its obligation to guarantee funding of the inter-American human rights system with resources from the Regular Fund.
6. To specify that contributions to the Legal Assistance Fund of the Inter-American Human Rights System shall not preclude other voluntary contributions or the establishment of other specific funds to finance the operations of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights or programs run by those institutions, or the Oliver Jackman Fund.

7. To establish that the Legal Assistance Fund of the Inter-American Human Rights System shall take effect once the Permanent Council has adopted its rules of procedure, after consulting the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, taking into account the observations made by civil society.

8. To request the General Secretariat to report to the General Assembly at its thirty-ninth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

In 2009, by Resolution CP/RES. 963 (1728/09) of November 11, 2009, the Organization’s Permanent Council issued the “*Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System.*” Among other matters, these rules of procedure govern the purpose, the resources, the distribution, the approval of legal assistance and the management of the Fund’s resources.

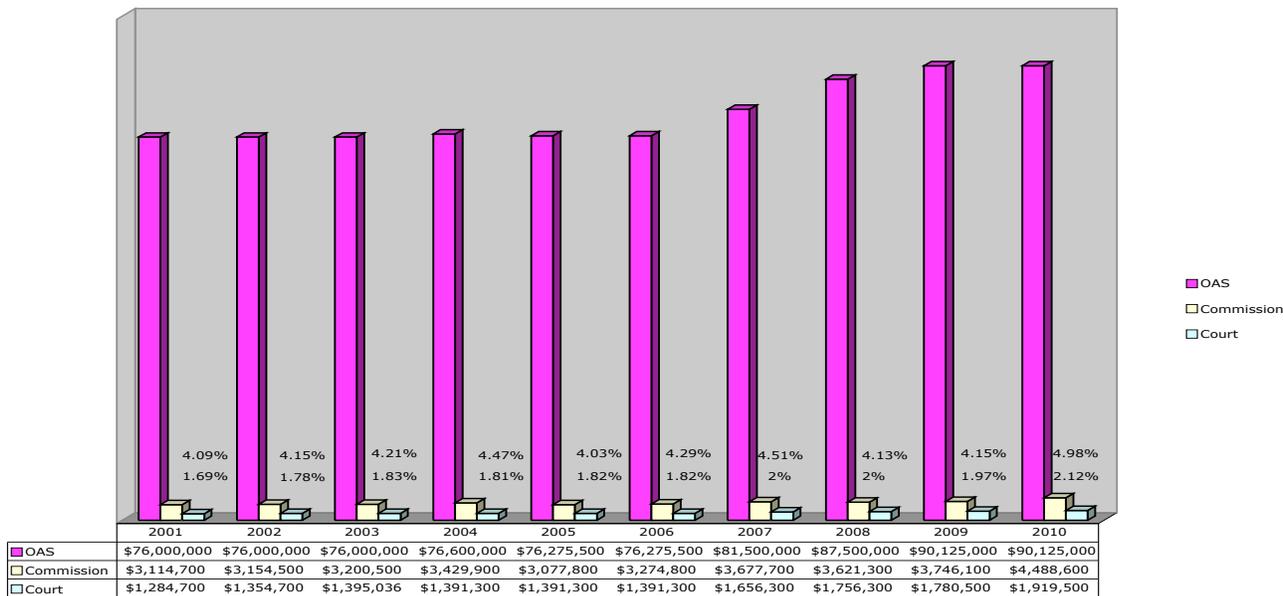
G. BUDGET

G.1 Core budget

Article 72 of the Convention provides that “the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it.” In accordance with Article 26 of its Statute, the Court administers its own budget. The 2009, budget of the Court was US\$1,780,500.00 (one million seven hundred and eighty thousand five hundred United States dollars).

At its thirty-eighth special session held in Washington, D.C., on September 30, 2009, the General Assembly of the Organization of American States approved the Court’s budget for 2010 in the amount of US\$1,919,500.00 (one million nine hundred and nineteen thousand five hundred United States dollars).

Regular annual fund of the OAS and annual budget of the Inter-American Commission and Court



G.2 Voluntary contributions

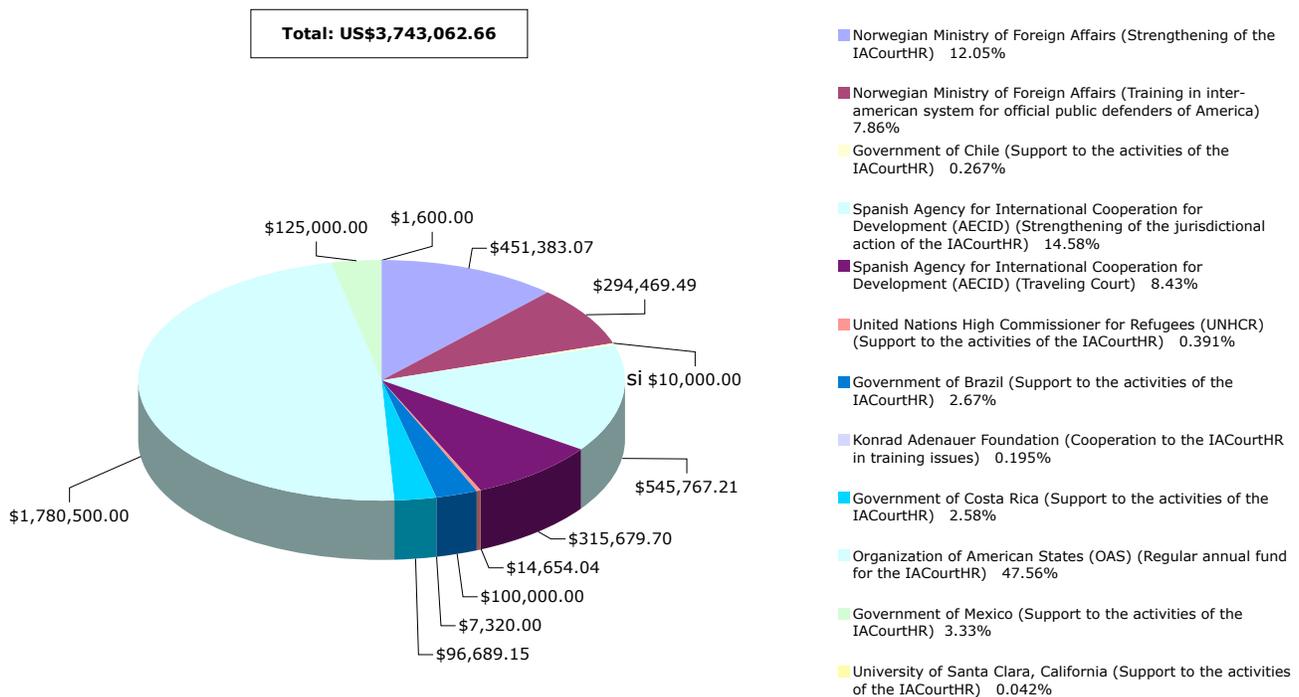
The Court received several independent contributions. The United Nations High Commissioner for Refugees (UNHCR) gave ₡8,200,000.00 in local currency (the equivalent of US\$14,654.04); the Konrad Adenauer Foundation donated the sum of US\$7,320.00. The Government of Chile, through its Embassy in Costa Rica, made a contribution of US\$10,000.00. Santa Clara University in California, donated US\$1,600.00. The Government of Brazil contributed the sum of US\$100,000.00. In 2008, the Mexican Government made a contribution of US\$125,000.00, to be used by the Court during 2009. Under the headquarters agreement, the Government of Costa Rica should make an annual contribution of US\$100,000.00; however, by making the deposits in local currency at the exchange rate in force, the total for 2009, decreased to US\$96,689.15.

G.3 Cooperation projects

Execution of international cooperation projects continued during 2009. The Government of Norway, through the Norwegian Ministry of Foreign Affairs, provided US\$451,383.07 for the 2009 budget of the project "Strengthening the Inter-American Court of Human Rights." In addition, during 2009, the Norwegian Ministry of Foreign Affairs donated US\$294,469.49 for the project "Training on the inter-American system for official public defenders of the Americas."

The Spanish International Cooperation Agency for Development (AECID) donated US\$545,767.21.00 for the project "Strengthening the Jurisdictional Action of the Inter-American Court of Human Rights (Year 2/2)". The Agency also provided US\$315,679.70 for the Itinerant Court project (second stage, year 1).

Inter-American Court of Human Rights Contributions 2009



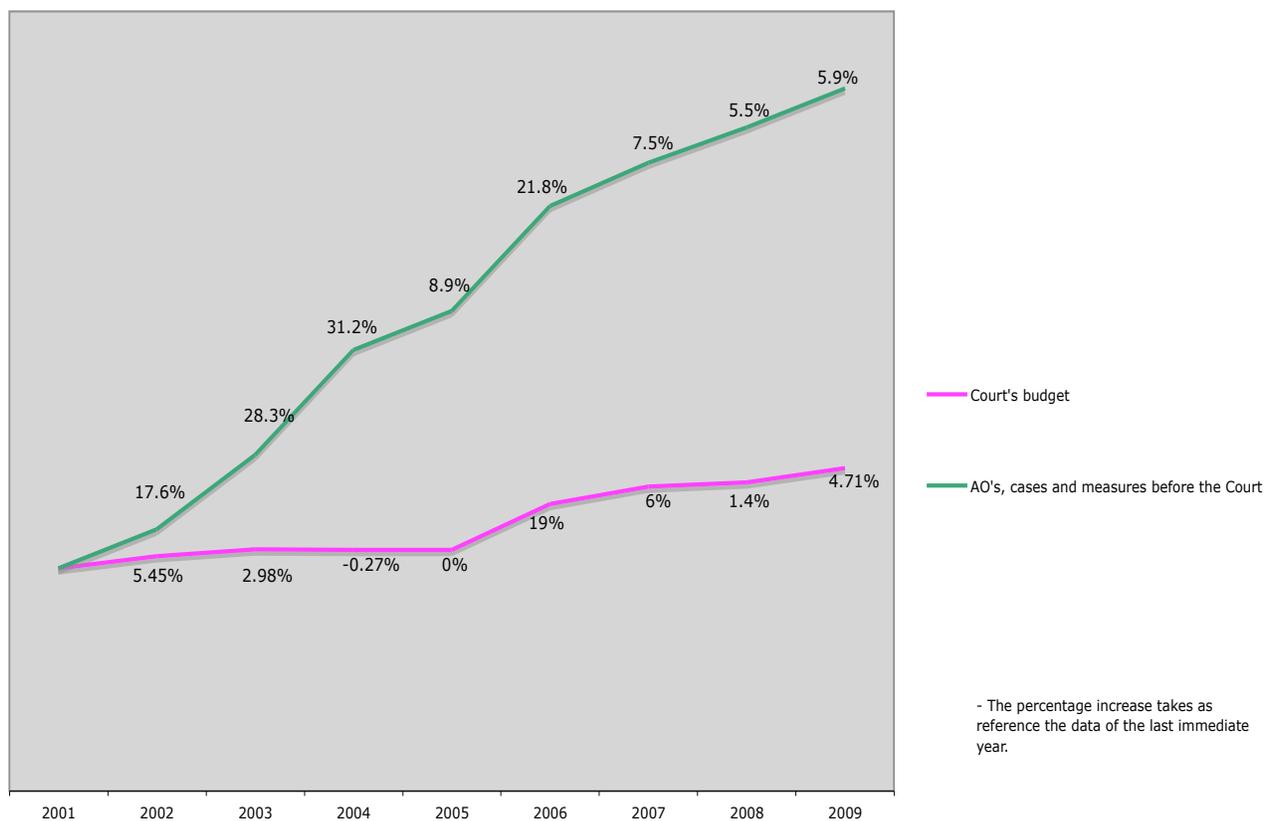
G.4 Audit of the financial statements

During 2009, an audit was conducted of the Inter-American Court’s financial statements for the 2008 financial year, covering both OAS funds and the State of Costa Rica’s contribution for this period. 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 the generally accepted accounting and auditing principles.

According to the March 12, 2009, report of the 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 2008, 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 this report was sent to the OAS Financial Services Department and to the Organization’s Inspector General.

Regular budget of the Court and advisory opinions, contentious cases and provisional measures before the Court



H. AGREEMENTS, INTERNSHIPS AND RELATIONS WITH OTHER ORGANIZATIONS

H.1 Inter-institutional agreements

During 2009, the Inter-American Court of Human Rights concluded cooperation agreements with 21 institutions of different types. These agreements were signed with: the Inter-American Association of Public Defenders (AIDEF); the Universidad Nacional Autónoma de México (UNAM); the Escuela Superior de Administración Pública (ESAP), Colombia; the Ministry of Foreign Affairs of the Plurinational State of Bolivia; the Ministry of Justice of the Plurinational State of Bolivia; the Ministry of Legal Defense of the Plurinational State of Bolivia; the Trade Union Confederation of Bolivia; the Supreme Court of Justice of the Dominican Republic; the Military Institute of Human Rights and International Humanitarian Law, Dominican Republic; the Military Institute of Human Rights and Human Dignity, Dominican Republic; the Public Prosecutor's Office of the Attorney General's Office, Dominican Republic; the Universidad Iberoamericana (UNIBE), Dominican Republic; the Universidad Autónoma de Santo Domingo (UASD), Dominican Republic; the Pontificia Universidad Católica Madre y Maestra, Dominican Republic; the Ministry of Foreign Affairs of the Dominican Republic; the Universidad Acción Pro Educación y Cultura (UNAPEC), Dominican Republic; the Ministry of Foreign Affairs of Chile (Andrés Bello Diplomatic Academy); the Public Criminal Defense Office, Republic of Chile, the Justice Studies Center of the Americas (JSCA), Chile, the Law School of Seattle University, United States, and the Law School of the University of Utrecht, Holland. The purpose of these agreements is to establish the bases for collaboration in order to promote joint activities with the said institutions in the area of human rights research, teaching, dissemination and extension work.

H.2 Memorandum of Understanding between the Court and the Inter-American Association of Public Defenders (AIDEF)

On September 25, 2009, a memorandum of understanding was signed between the Inter-American Court of Human Rights and the Inter-American Association of Public Defenders (AIDEF) at the seat of the Court. Prior to the signing ceremony, several meetings had been held between the two institutions and Tom Tyrihjell, Ambassador of Norway to Nicaragua.

The purpose of the Memorandum of Understanding is to provide free legal aid to presumed victims who lack financial resources or legal representation before the Inter-American Court of Human Rights. The two institutions play an important role in the sphere of justice, within their respective areas of expertise, and agreed that they should therefore coordinate their efforts to ensure that everyone has access to inter-American justice.

H.3 Internships and professional practicums

During 2009, the Court received at its seat 54 interns and professional visitors from the following 19 countries: Argentina, Austria, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, France, Germany, Holland, Italy, Jamaica, Mexico, Peru, Spain, the United States of America and Venezuela. The following website can be consulted for further information on the Court's Internships and Professional Visits Program: <http://www.corteidh.or.cr/pasantias.cfm>.

H.4 Relations with similar regional organizations

The Court enjoys close institutional ties with the Inter-American Commission. These ties have been strengthened through meetings that their members must hold, as a result of a recommendation



of the General Assembly. The Court also maintains close relations with the Inter-American Institute of Human Rights, which was established under an agreement between the Government of Costa Rica and the Court that entered into force on November 17, 1980. The Institute is an autonomous, international academic institution, with a global, interdisciplinary approach to the teaching, research and promotion of human rights. The Court also maintains institutional relations with the European Court of Human Rights, which was created by the European Convention for the Protection of Human Rights and Fundamental Freedoms and established by the Council of Europe with similar functions to those of the Inter-American Court.

I. TRAINING AND DISSEMINATION

During 2009, the Court held a series of human rights training and dissemination activities in several countries of the Americas in order to expand the understanding of the Court's functions and the inter-American system for the protection of human rights, through the participation and training of civil society organizations and individuals, academics and public servants. These activities are described below:

I.1 Graduate fellowship course: "Human Rights and the Right to a Fair Trial"

In 2008 and 2009, the Inter-American Court of Human Rights, together with the Inter-American Commission, and with the collaboration of the Regional Office of the United Nations High Commissioner for Human Rights, sponsored the Graduate Fellowship course on "Human Rights and the Right to a Fair Trial," organized by the Inter-American Organization for Higher Education (IOHE), the College of the Americas (COLAM), the Inter-American Training Network in Governance and Human Rights (RIF-DH) and the Universidad de Chile, implemented in the context of a human rights training program that includes three training courses over the period 2008-2011, two of them subregional and one regional.

There are two stages to the course; one of distance training and the other classroom-based. Lawyers from the Court were members of the teaching staff during the classroom-based week, which was held in Buenos Aires, Argentina, in 2008 and in Mexico City in 2009. In 2010, the classroom week will be held in Lima, Peru.

The graduate fellowship course is addressed to administrators of justice (judges, prosecutors and defense counsel) from South America, Central America and Mexico, and its purpose is to provide training to members of justice administration institutions in the hemisphere on understanding and utilizing standards, norms and principles of international human rights law, so that they can use them in their professional life.

I.2 Seminar-workshops under the agreement signed with the Escuela Superior de Administración Pública (ESAP), Colombia

On February 17, 2009, a general cooperation agreement was signed by the Escuela Superior de Administración Pública (ESAP) of the Republic of Colombia and the Inter-American Court. The agreement was implemented starting in May 2009 by planning a series of activities, through coordination between the Court's Secretariat and the senior management department of ESAP. The purpose of the agreement is to disseminate information on the inter-American system, and to provide training on human rights topics to public officials, and commanders of troops, divisions and brigades of the Air Force, the Army, the Navy and the National Police of Colombia;

judges, officials of the Prosecutor General's Office and other administrators of justice; officials of the Presidential Human Rights Program, the Ministry of the Interior and Justice, the Ministry of Foreign Affairs, the Ombudsman, and the Comptrollers' Offices, as well as ESAP professors and students in each region.

These objectives have been implemented principally through planning and holding seminar-workshops on the inter-American human rights system, in order to analyze with public officials from different branches the incidence of the Court's case law in the performance of their functions. To date, two seminar-workshops have been held; the first in Santa Marta on September 16 and 17, 2009, with the participation of around 80 civil and military public officials, and the second in Santiago de Cali on October 22 and 23, 2009, with the participation of 102 public officials.

The topics discussed in these seminars included: background, history, normativity, protection organs and functions of the inter-American human rights system; State responsibility under the system's international treaties; access to justice; the rights to life, personal integrity and personal liberty; serious human rights violations and transitional justice mechanisms; states of emergency and legitimate use of force and, in particular, vulnerable groups.

In 2010, it is planned to continue holding these seminars in other departmental capitals of Colombia, offered by the Court's judges and lawyers, and international academics and experts selected by the Court, and national academics and experts selected by ESAP. An "Itinerant Chair on the Inter-American System" is also planned, as well as an international forum on human rights and the inter-American system.

I.3 Project: "Capacity-building for Central American administrators of justice for the protection of human rights"

In the context of the project: "Capacity-building for Central American administrators of justice for the protection of human rights," the Inter-American Court of Human Rights, together with the Konrad Adenauer Foundation and the Inter-American Institute of Human Rights, with the support of the Judicial School of Costa Rica and the Judicial Organ of Panama, organized two training courses in which approximately 60 judicial officials took part, principally from the high courts of Costa Rica and Panama.

The courses were intended to reinforce the technical and juridical capabilities of the administrators of justice of Central America and the Dominican Republic for providing education, promotion and protection of human rights, as well as to encourage discussions on case law between the Inter-American Court and the national courts, by examining the inter-American human rights system and sharing jurisprudential experience, in order to enhance the efforts of the institutions of justice in favor of human rights and democracy in the region.

I.4 Program: "Training on the inter-American system for public officials of the Americas"

Under the "Training program on the inter-American system for public officials of the Americas," the Inter-American Court of Human Rights, in conjunction with the Inter-American Association of Public Defenders (AIDEF), organized four training courses for around 100 public defenders from Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico and Uruguay.

The courses were organized within the framework of the thirty-fifth special session of the Inter-American Court held in Montevideo, Uruguay, from August 11 to 15, 2008; the thirty-seventh special session held in Mexico City from December 1 to 5, 2008; the thirty-eighth special session held in Santo Domingo, Dominican Republic, from March 30 to April 3, 2009, and the thirty-ninth special session held in Santiago, Chile, from April 27 to 30 2009. 60 officials from offices of public defenders took part in the two training courses held in 2009.

The objective of these courses is to enable public defenders to apply the case law of the inter-American system for the protection of human rights at the national level and also to ensure that, if a case is submitted to the system, the improved understanding of this case law will have a relevant impact on the litigation of the case, which will have a beneficial effect on the work of the Inter-American Court and of the inter-American system itself.

I.5 Specialized course on the inter-American human rights system for State officials

In August 2004, the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights and the Inter-American Institute of Human Rights signed a cooperation agreement for the promotion of human rights in the Americas. The mandate of the three institutions converges, precisely, in the strengthening of the regional system and the effective exercise of human rights in our countries, and the tripartite agreement permits these institutions to work together to promote a continental strategy that includes, as one of its concrete actions, the specialized training of State officials on the main normative, procedural and institutional aspects of the inter-American system.

The “Specialized course on the inter-American human rights system for State officials,” held for the first time in 2005, is the only training mechanism of its type in the Americas and constitutes a unique opportunity, not only to train the most senior State agents, but also for an open and constructive dialogue between the States and the organs of the regional system.

As in the case of the preceding courses, the fourth edition of the course held in San José, Costa Rica, from January 19 to 24, 2009, focused on assembling officials of ministries of foreign affairs, attorney generals’ offices, and other public institutions linked directly to the proceedings before the Inter-American Commission and the Inter-American Court, for training activities, discussions and an exchange of experiences in an academic environment.

The group of participants was made up of 34 State agents from 17 countries of the Americas. The methodology of the course includes a combination of lectures, observation of public hearings before the Inter-American Court and opportunities to analyze and discuss the hearings in a process that leads the student from theoretical, conceptual and normative aspects to their practical application in the inter-American litigation process.

I.6 Publication “Diálogo Jurisprudencial”

Since 2006, the Inter-American Court of Human Rights, together with the Inter-American Institute of Human Rights, the Juridical Research Institute of the Universidad Nacional Autónoma de México (UNAM) and the Konrad Adenauer Foundation have published the journal “*Diálogo Jurisprudencial*,” based on the need to publicize the evolution of the inter-American human rights system and the incorporation of the international norms in this area into the legal systems

of the different countries, as well as the corresponding national incorporation of international jurisprudence. The high courts of many countries (supreme courts and constitutional courts) have accepted the opinions of the Inter-American Court, in its capacity as the interpreter of the American Convention and other applicable instruments, expanding the horizons of the protection of human rights.

The purpose of this publication is to disseminate these advances, revealing their characteristics and expanding their consequences, thereby helping to strengthen the contemporary culture of human rights and, consequently, the effective protection of millions of individuals who await the benefits of a productive partnership between national and international justice. In this way, the journal periodically assembles a certain number of judgments issued by the high courts of the countries of the Americas that illustrate the progress mentioned above and provide sufficient momentum to carry on the important task to which the national and international jurisdictions are committed.

In 2009, editions IV, V and VI of this journal were published. In addition to the printed version, there is a CD-ROM version. It has a circulation of 2,000 copies distributed in different countries of the Americas.

I.7 The Court's publications

During 2009, in the context of the project "Strengthening the Inter-American Court of Human Rights," financed by the Norwegian Ministry of Foreign Affairs, eleven volumes were published with judgments handed down by the Court, corresponding to Series C.¹⁵

During the thirty-eighth special session held in the Dominican Republic from March 30 to April 3, 2009, with funding from the Ministry of Foreign Affairs of Norway, 300 leaflets with information on the Court were distributed, together with 300 leaflets with information on that session, 300 CD-ROMs with the Court's case law, and other publications of the Court.

During the thirty-ninth special session held in Chile from April 27 to 30, held with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Development

¹⁵ The following volumes were published: ICourHR, Case of the Pueblo Bello Massacre v. Colombia. Merits, reparations and costs. Judgment of January 31, 2006. Series C No. 140. ICourHR, Case of López Álvarez v. Honduras. Merits, reparations and costs. Judgment of February 1, 2006. Series C No. 141. ICourHR, Case of the Yakye Axa Indigenous Community v. Paraguay. Interpretation of the judgment on merits, reparations and costs. Judgment of February 6, 2006. Series C No. 142. ICourHR, Case of Raxcacó Reyes v. Guatemala. Interpretation of the judgment on Merits, reparations and costs. Judgment of February 6, 2006. Series C No. 143. ICourHR, Case of Acevedo Jaramillo et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of February 7, 2006. Series C No. 144. ICourHR, Case of the Moiwana Community v. Suriname. Interpretation of the judgment on merits, reparations and costs. Judgment of February 8, 2006. Series C No. 145. ICourHR, Case of the Sawhoyamaxa Indigenous Community v Paraguay. Merits, reparations and costs. Judgment of March 29, 2006. Series C No. 146. ICourHR, Case of Baldeón García v. Peru. Merits, reparations and costs. Judgment of April 6, 2006. Series C No. 147. ICourHR, Case of the Ituango Massacres v. Colombia. Preliminary objection, merits, reparations and costs. Judgment of July 1, 2006. Series C No. 148. ICourHR, Case of Ximenes Lopes v. Brazil. Merits, reparations and costs. Judgment of July 4, 2006. Series C No. 149. ICourHR, Case of Montero Aranguren et al. (Catia Detention Center) v. Venezuela. Merits, reparations and costs. Judgment of July 5, 2006. Series C No. 150.



Cooperation Agency, 300 leaflets with information on the Court were distributed, together with 300 leaflets with information on that session, 300 CD-ROMs with the Court's case law, and other publications of the Court.

During the fortieth special session held in Bolivia from July 13 to 15, 2009, with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Development Cooperation Agency, 300 leaflets with information on the Court were distributed, together with 300 leaflets with information on that session, 300 CD-ROMs with the Court's case law, and other publications of the Court.

II. JURISDICTIONAL AND ADVISORY ACTIVITIES OF THE COURT

The Court held four regular sessions at its seat during 2009,¹⁶ and three special sessions away from its seat,¹⁷ for a total of 64 days of sessions. The details of each session are presented below:

II.a REGULAR SESSIONS

A. Eighty-second regular session of the Court

The Court held its eighty-second regular session in San José, Costa Rica, from January 19 to 31, 2009, with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). The following Judges ad hoc also took part in the session: Rosa María Álvarez González, appointed by the United Mexican States for the case of *González Banda et al.* ("*Campo Algodonero*"); Einer Elías Biel Morales, appointed by the State of Venezuela for the case of *Reverón Trujillo*; Pier Paolo Pasceri Scaramuzza, appointed by the State of Venezuela for the cases of *Perozo et al.*, and *Ríos et al.*; and Víctor Oscar Shiyin García Toma, appointed by the State of Peru for the case of *Members of the Association of Dismissed and Retired Employees of the Office of the Comptroller General of the Republic*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held two public hearings on contentious cases, nine private hearings on monitoring compliance with judgment, and five private hearings on implementation of provisional measures. It also delivered three judgments in contentious cases, seven orders

16 Eighty-second regular session from January 19 to 31, 2009; eighty-third regular session from June 29 to July 11, 2009; eighty-fourth regular session from September 21 to October 3, 2009, and eighty-fifth regular session from November 16 to 28, 2009.

17 Thirty-eighth special session held in Santo Domingo, Dominican Republic, from March 30 to April 3, 2009; thirty-ninth special session held in Santiago, Chile, from April 27 to 30, 2009, and fortieth special session held in La Paz, Bolivia, from July 13 to 15, 2009.

on provisional measures, five orders on monitoring compliance with judgment, one interlocutory decision on a contentious case, and one order on a request for an advisory opinion. In addition, the Court amended its Rules of Procedure. The matters considered by the Court during the session are described below:

1. Case of González Banda et al. ("Campo Algodonero") (Mexico): *Request to expand the number of presumed victims and refusal of the State to forward certain documentary evidence.* On January 19, 2009, the Court issued an order on the dispute concerning the request to expand the number of presumed victims filed by their representatives, as well as on the refusal of the United Mexican States to forward certain documentary evidence in this case. In this regard, the Court decided, *inter alia*, to reject the request to expand the number of victims in relation to the following women: María de los Ángeles Acosta Ramírez, Guadalupe Luna de la Rosa, Mayra Juliana Reyes Solís, Verónica Martínez Hernández, Bárbara Aracely Martínez Ramos, María Rocina Galicia Meraz, Merlín Elizabeth Rodríguez Sáenz and the woman who is still unidentified woman 195/01, and also Víctor Javier García Ramírez, Gustavo González Meza and Edgar Álvarez Cruz; to declare that, in this case, the Court will consider the following persons as alleged victims: Esmeralda Herrera Monreal, Claudia Ivette González and Laura Berenice Ramos Monárrez and their next of kin; to inform the State that the Court will consider proved the facts that can only be confirmed by the evidence that the State refuses to forward, and to request the parties to forward their final list of witnesses and expert witnesses by February 16, 2009, at the latest.

2. Case of the Mapiripán Massacre (Colombia): *Monitoring compliance with judgment and with the implementation of and need for the provisional measures.* On January 19, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case, to hear the corresponding observations of the Inter-American Commission and the representatives, and to receive information on the implementation and effectiveness of the provisional measures ordered in this case, as well as on the need to maintain them in effect.

3. Case of the Five Pensioners (Peru): *Monitoring compliance with judgment.* On January 19, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and the representatives.

4. Case of the 19 Tradesmen (Colombia): *Monitoring compliance with judgment and with the implementation of and need for the provisional measures.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on preliminary objections, merits, reparations and costs handed down in this case, to hear the corresponding observations of the Inter-American Commission and the representatives, and to receive information on the implementation and effectiveness of the provisional measures ordered in this case, as well as concerning a request submitted by the State that the measures be lifted.

5. Case of Carpio Nicolle et al. (Guatemala): *Monitoring compliance with judgment and with the implementation of and need for the provisional measures.* On January 20, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case, to hear the corresponding observations of the Inter-American Commission and the representatives, and to receive information on the implementation and effectiveness of the provisional measures ordered in this case, as well as on the need to maintain them in effect.

6. Case of Palamara Iribarne (Chile): *Monitoring compliance with judgment.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and the representatives.

7. Case of the Pueblo Bello Massacre (Colombia): *Monitoring compliance with judgment.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case, and to hear the corresponding observations of the Inter-American Commission and the representatives.

8. Case of Gutiérrez Soler (Colombia): *Monitoring compliance with judgment and with the implementation of and need for the provisional measures.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case, to hear the corresponding observations of the Inter-American Commission and the representatives, and to receive information on the implementation and effectiveness of the provisional measures ordered in this case, as well as on the need to maintain them in effect.

9. Case of Bámaca Velásquez (Guatemala): *Monitoring compliance with judgment and with the implementation of and need for the provisional measures.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on reparations and costs handed down in this case, to hear the corresponding observations of the Inter-American Commission and the representatives, and to receive information on the implementation and effectiveness of the provisional measures ordered in this case, as well as on the need to maintain them in effect.

Furthermore, on January 27, 2009, the Court issued an order on monitoring compliance with judgment and provisional measures in this case, in which it declared, *inter alia*, that the State had complied partially with its obligation to adopt legislative and any other necessary measures to adapt the laws of Guatemala to international human rights standards and to ensure that these laws were fully enforced in the domestic sphere and that, consequently, it would maintain the monitoring proceeding open until this point had been complied with fully; that the following obligations remain pending: (a) location of the mortal remain of Mr. Bámaca Velásquez, their exhumation in the presence of his widow and next of kin, and the return to them of his remains and (b) investigation of the facts that gave rise to the violations of the American Convention and of the Inter-American Convention to Prevent and Punish Torture, the identification and, if applicable, punishment of those responsible, as well as public dissemination of the results of the respective investigation; and that it would maintain this monitoring proceeding open until full compliance with the obligations indicated in the previous points. In addition, it decided to require the State to adopt, forthwith, all necessary measures to comply effectively and promptly with the pending aspects, as stipulated in Article 68(1) of the American Convention; to request the State to present updated and detailed reports to the Inter-American Court indicating all the measures adopted to comply with the reparations ordered by the Court that are pending; to request the representatives of the victims and the Inter-American Commission to present observations on the State's report; to require the State to maintain the provisional measures decided in the order of March 11, 2005; to request the State to present information on the implementation of the provisional measures and an assessment of the situation of extreme gravity and urgency in relation to each beneficiary of the provisional measures; to request the representatives and the

State to submit information that will confirm or disprove that the lack of investigation places the beneficiaries of the provisional measures in a situation of extreme gravity and urgency of avoiding irreparable damage to life and personal integrity, and to ask the Inter-American Commission to present observations on the reports of the State and the representatives.

10. Case of the “Street Children” (Villagrán Morales *et al.*) (Guatemala): *Monitoring compliance with judgment.* On January 20, 2009, the Court held a private hearing to obtain information from the State on compliance with the judgment on reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and the representatives.

11. Case of the Members of the Association of Dismissed and Retired Employees of the Office of the Comptroller General of the Republic (Peru): *Preliminary objection, and possible merits, reparations and costs.* On January 21, 2009, at a public hearing, the Court heard the testimony of two witnesses proposed by the representative of the presumed victims. The Court also heard the final oral arguments of the parties on the preliminary objection, and on the possible merits, reparations and costs in this case.

12. Case of Reverón Trujillo (Venezuela): *Preliminary objections, and possible merits, reparations and costs.* On January 23, 2009, at a public hearing, the Court heard the testimony of the witnesses and expert witness proposed by the Inter-American Commission on Human Rights, the representatives of the presumed victims and the Venezuelan State. The Court also heard the final oral arguments of the parties on the preliminary objections, and on the possible merits, reparations and costs in this case.

13. Matter of Luis Uzcátegui (Venezuela): *Provisional measures.* On January 27, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to require the State of Venezuela to maintain the provisional measures required in the order of November 27, 2002; to ask the representatives to provide further information on the existence of extreme gravity and urgency to avoid irreparable damage to the life and personal integrity of Mr. Uzcátegui; to ask the parties to submit their pleadings and evidence and explain the circumstances, time and place that confirm or disprove that the investigations underway place Mr. Uzcátegui in a situation of extreme gravity and urgency to avoid irreparable damage to life and personal integrity; and to ask the State to present a report on the implementation of the provisional measures, in particular on compliance with the commitments agreed with the representatives and with Mr. Uzcátegui, and on progress in the investigations concerning the facts that gave rise to the measures.

14. Case of Mack *et al.* (Guatemala): *Provisional measures.* On January 26, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to lift the provisional measures in favor of the beneficiaries: Viviana Salvatierra, América Morales Ruiz and Iduvina Hernández; to require the State to maintain any measures it had adopted and to adopt all necessary measures to protect the right to life and personal integrity of Helen Mack Chang and her next of kin, Zoila Esperanza Chang Lau (mother), Marco Antonio Mack Chang (brother), Freddy Mack Chang (brother), Vivian Mack Chang (sister), Ronald Chang Apuy (cousin), Lucrecia Hernández Mack (daughter) and her children, of the members of the Myrna Mack Chang Foundation, as well as of Luis Roberto Romero Rivera, Jorge Guillermo Lemus Alvarado and of their next of kin, for an additional period of at least six months, following which the Court will assess the pertinence of maintaining them in effect; to require the representatives to forward an

assessment of the danger faced by each of the beneficiaries protected by the measures, setting out the arguments and evidence based on which they consider that the measures ordered should remain in effect for Helen Mack Chang and each of her next of kin, as well as the protection provided to the members of the Myrna Mack Foundation. Specifically, to present information on the alleged acts against Ronald Chang Apuy, on his current situation and on the measures taken with regard to these acts, as well as the information requested with regard to Luis Roberto Romero Rivera and Jorge Guillermo Lemus Alvarado. In addition, the Court required the Inter-American Commission on Human Rights to submit its individualized observations on each beneficiary; to require the State to submit a detailed report referring to the observations of both the representatives and the Inter-American Commission. Similarly, the State was required to forward information on the alleged acts against Ronald Chang Apuy, on his current situation and on the measures taken in relation to these acts, and also to implement the provisional measures after they have been agreed on with the beneficiaries of the measures or their representatives to ensure effective protection of their rights.

15. Case of López Álvarez et al. (Honduras): Provisional measures. On January 26, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to lift and terminate the provisional measures required by the Inter-American Court of Human Rights in its orders of June 13 and September 21, 2005, in favor of Alfredo López Alvarez, Teresa Reyes Reyes, Gregoria Flores Martínez, Martina Reyes Marcelino, Diego Armando Aranda, Sherly Martina Flores, Dennis Rosario Ramos Flores and Jonny Zelene Zapata Flores, and to close the case file.

16. Matter of Carlos Nieto Palma et al. (Venezuela): Provisional measures. On January 26, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to lift and terminate the provisional measures required by the Court in its order of July 9, 2004, and to close the case file.

17. Case of the Gómez Paquiyauri Brothers (Peru): Provisional measures. On January 22, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to lift the provisional measures required by the Court in its orders of May 7, 2004, September 22, 2006, and May 3, 2008, with regard to Ángel del Rosario Vásquez Chumo and the members of his family in the case of the Gómez Paquiyauri Brothers and to close the case file.

18. Matter of the Association of Forensic Anthropology of Guatemala (Guatemala): Provisional measures. On January 26, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to require the State to maintain any measures it had adopted and that it adopt, forthwith, all necessary measures to provide effective protection to the rights to life and to personal integrity of the beneficiaries of the provisional measures; to require the State to take the pertinent steps to ensure that the measures of protection required in the order are planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that they can be implemented diligently and effectively and, in general, to keep them informed of progress in the execution of the measures; and to require the State to continue informing the Court about any provisional measures adopted. In particular, it is essential that the State report on the concrete results achieved based on the specific needs for protection of the beneficiaries of the measures and in compliance with the undertakings made by the State in this context. In this regard, the State should provide information, *inter alia*, on: (a) the security measures adopted in favor of the children Tristán Collin Peccerelli Valle and Ashley Corienne Peccerelli Valle; (b) the presence of security agents during the travels and the

exhumations conducted by the beneficiaries; and (c) the investigation into the facts that gave rise to the adoption of the provisional measures.

19. Request for an advisory opinion presented by the Inter-American Commission on Human Rights: On January 27, 2009, the Court issued an order with regard to a request for an advisory opinion presented by the Inter-American Commission on Human Rights, in which it decided that it would not respond to this request, because the Court's case law reveals its criteria concerning the points raised in the request.

20. Case of Tristán Donoso (Panama): *Judgment on preliminary objection, merits, reparations and costs.* On January 27, 2009, the Court delivered judgment on the preliminary objection, merits, reparations and costs in this case, deciding to reject the preliminary objection filed by the State, and declaring, *inter alia*, that: the State had not violated the right to privacy established in Article 11(2) (Right to Privacy) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Santander Tristán Donoso, owing to the interception and recording of a telephone conversation; the State had violated the right to privacy and the right to honor and reputation recognized in Article 11(1) and 11(2) (Right to Privacy) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, owing to the dissemination of the telephone conversation; the State had not failed to comply with the obligation to ensure the right to privacy established in Article 11(2) (Right to Privacy) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, owing to the investigation of the former Attorney General; the State had violated the right embodied in Article 13 (Freedom of Thought and Expression) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, as regards the punitive measure imposed on him; the State had not failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the American Convention, to the detriment of Santander Tristán Donoso, owing to the alleged deficiencies in the legislative framework regulating honor crimes in Panama; the State had not violated the right established in Article 9 (Freedom from Ex-Post Facto Laws) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, in relation to the punitive measure imposed on him; the State had not violated the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, with regard to the investigation into the facts he had denounced; the State had violated the right established in Article 8(1) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, owing to the failure to found the judicial decision on the dissemination of the telephone conversation; the State had not violated the right embodied in Article 8(1) (Right to a Fair Trial) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santander Tristán Donoso, in the context of the investigation opened against him for honor crimes, and it was unnecessary to make any additional findings to those included on Article 13 (Freedom of Thought and Expression) of the American Convention, with regard to the arguments of the victim's representatives concerning the presumed violation of the right to presumption of innocence embodied in Article 8(2) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof.

Regarding reparations, the Court ordered, *inter alia*, that the State must: annul the sentence convicting Santander Tristán Donoso and all its consequences; publish once in the official gazette

and in another daily newspaper with widespread national circulation paragraphs 1 to 5; 30 to 57; 68 to 83; 90 to 130, and 152 to 157 of the judgment, without the footnotes, and the operative paragraphs; pay Santander Tristán Donoso compensation for non-pecuniary damage, and make the corresponding payment for reimbursement of costs and expenses.

Judge Sergio García Ramírez informed the Court of his separate opinion, which accompanies the judgment.

21. Case of Perozo et al. (Venezuela): *Judgment on preliminary objections, merits, reparations and costs.*¹⁸ On January 28, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, deciding to reject the preliminary objections filed by the State and declaring, *inter alia*, that the State was responsible for failing to comply with its obligation contained in Article 1(1) (Obligation to Respect Rights) of the Convention to guarantee the freedom to seek, receive and disseminate information and the right to humane treatment embodied in Articles 13(1) (Freedom of Thought and Expression) and 5(1) (Right to Humane Treatment) of the American Convention, to the detriment of Alfredo José Peña Isaya, Aloys Emmanuel Marín Díaz, Ana Karina Villalba, Ángel Mauricio Millán España, Aymara Anahí Lorenzo Ferrigni, Beatriz Alicia Adrián García, Carla María Angola Rodríguez, Carlos Arroyo, Carlos Quintero, Ramón Darío Pacheco Villegas, Edgar Hernández, Efraín Antonio Henríquez Contreras, Felipe Antonio Lugo Durán, Gabriela Margarita Perozo Cabrices, Janeth del Rosario Carrasquilla Villasmil, Jhonny Donato Ficarella Martín, John Power, Jorge Manuel Paz Paz, José Vicente Antonetti Moreno, Joshua Oscar Torres Ramos, Martha Isabel Herminia Palma Troconis, Mayela León Rodríguez, Miguel Ángel Calzadilla, Oscar José Núñez Fuentes, Richard Alexis López Valle, and Yesenia Thais Balza Bolívar. In addition, the State was responsible for failing to comply with its obligation, contained in Article 1(1) (Obligation to Respect Rights) of the Convention, to guarantee the freedom to seek, receive and disseminate information embodied in Article 13(1) (Freedom of Thought and Expression) of the American Convention, to the detriment of Ademar David Dona López, Carlos José Tovar Pallen, Félix José Padilla Geromes, Jesús Rivero Bertorelli, José Gregorio Umbría Marín, Wilmer Jesús Escalona Arnal, and Zullivan René Peña Hernández. Furthermore, the Court declared that it had not been established that the State had violated the right embodied in Article 24 (Right to Equal Protection) of the American Convention; it had not been established that the State had violated the right recognized in Article 21 (Right to Property) of the Convention; it had not been established that the State had violated the right to seek, receive and disseminate information in the terms of Article 13(3) (Freedom of Thought and Expression) of the American Convention, and it was not appropriate to examine the facts of the case under Articles 1, 2 and 7(b) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem do Pará”).

Regarding reparations, the Court ordered, *inter alia*, that the State must: conduct the investigations and criminal proceedings opened and underway in the domestic sphere efficiently and within a reasonable time, as well as any that are opened in the future, to determine the corresponding responsibilities for the facts of the case and apply the consequences established by law; publish once in the official gazette and in another daily newspaper with widespread national circulation, paragraphs 1 to 5, 114 to 168, 279 to 287, 302 to 304, 322 to 324, 330, 335 to 337, 343, 344, 358 to 362, 404 to 406, and 413 to 416 of the judgment, without the corresponding footnotes, and the operative paragraphs; adopt the necessary measures to avoid undue restrictions and direct or indirect impediments to the exercise of the freedom to seek, receive and disseminate

18 Judge Diego García-Sayán recused himself from hearing this case.

information of the individuals who appear as victims in the case, and make the payment in reimbursement of costs and expenses.

Judge *ad hoc* Pasceri Scaramuzza informed the Court of his dissenting opinion, which accompanies the judgment.

22. Case of Ríos *et al.* (Venezuela): Judgment on preliminary objections, merits, reparations and costs.¹⁹ On January 28, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, deciding to reject the preliminary objections filed by the State and declaring, *inter alia*, that the State was responsible for failing to comply with its obligation contained in Article 1(1) (Obligation to Respect Rights) of the American Convention to ensure the exercise of the freedom to seek, receive and disseminate information and the right to humane treatment, recognized in Articles 13(1) (Freedom of Thought and Expression) and 5(1) (Right to Humane Treatment) of this treaty, to the detriment of Antonio José Monroy, Armando Amaya, Carlos Colmenares, David José Pérez Hansen, Erika Paz, Isabel Cristina Mavarez, Isnardo José Bravo, Javier García Flores, Luisiana Ríos Paiva and Pedro Antonio Nikken García. Furthermore, the State was responsible for failing to comply with its obligation contained in Article 1(1) (Obligation to Respect Rights) of the Convention to ensure the freedom to seek, receive and disseminate information, recognized in Article 13(1) (Freedom of Thought and Expression) of the American Convention, to the detriment of Anahís del Carmen Cruz Finol, Argenis Uribe, Herbigio Antonio Henríquez Guevara, Laura Cecilia Castellanos Amarista, Luis Augusto Contreras Alvarado, Noé Pernía, Samuel Sotomayor, Wilmer Marcano and Winston Francisco Gutiérrez Bastardo. In addition, the Court declared that it had not been established that the State had violated the right embodied in Article 24 (Right to Equal Protection) of the American Convention; it had not been established that the State had violated the right to seek, receive and disseminate information in the terms of Article 13(3) (Freedom of Thought and Expression) of the Convention; and that it was not appropriate to examine the facts of the case under Articles 1, 2 and 7(b) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belem do Pará").

Regarding reparations, the Court ordered, *inter alia*, that the State must: conduct effectively and within a reasonable time the ongoing domestic investigations and criminal proceedings, as well as any that may be opened in the future, to determine those responsible for the facts of this case and apply the consequences established by law; publish once in the official gazette and in another daily newspaper with widespread national circulation, paragraphs 1 to 5, 103 to 155, 265 to 273, 288 to 290, 305, 306, 318, 330 to 334, 395 to 397 and 403 to 406 and the operative paragraphs of the judgment, without the corresponding footnotes; adopt the necessary measures to avoid undue restrictions and direct or indirect impediments to the exercise of the freedom to seek, receive and disseminate information of the individuals who appear as victims in this case, and make the payment for reimbursement of costs and expenses.

Judge *ad hoc* Pasceri Scaramuzza informed the Court of his partially dissenting opinion, which accompanies the judgment.

23. Orders on monitoring compliance with judgment: During this session, the Court issued orders on monitoring compliance with the judgments handed down in the following cases:

¹⁹ Judge Diego García-Sayán recused himself from hearing this case.



Bámaca Velásquez v. Guatemala, the “Street Children” (Villagrán Morales *et al.*) v. Guatemala, Blake v. Guatemala, Maritza Urrutia v. Guatemala, and Neira Alegría *et al.* v. Peru.

24. Amendments and additions to the Rules of Procedure of the Inter-American Court of Human Rights:

During this session, the first stage of the regulatory reform culminated with the approval by the Court of several amendments to its Rules of Procedure and the corresponding explanatory statement.

The amendment of the Rules of Procedure was developed in a context shaped by the Court’s firm determination to sustain an ongoing dialogue with the different actors within the inter-American system. Hence, in 2008, a phase of participation and transparency was initiated and, in addition to its own suggestions, the Court urged other actors within the system to make a contribution.

In this spirit of dialogue, the Court asked the different actors and users of the system to present any comments they deemed pertinent for consideration during the first stage of the process of reflection.

To ensure the transparent participation of all interested parties, the Court initially granted them until December 8, 2008, to submit observations, and later extended the time frame to January 19, 2009.

In response to the Inter-American Court’s invitation, the following actors in the system submitted observations:

- a. The Inter-American Commission on Human Rights;
- b. The States of Brazil, Bolivia, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Uruguay and Venezuela;
- c. The following civil society organizations: the Center for Justice and International Law (CEJIL), the *Instituto de Defensa Legal*, the *Coordinadora Nacional of Human Rights*, the *Centro de Estudios Legales y Sociales*, the *Fundación para el Debido Proceso Legal*, the *Comisión Colombiana de Juristas*, the *Colectivo de Abogados “José Alvear Restrepo”*, the *Grupo Interdisciplinario por los Derechos Humanos*, the Inter-American Human Rights Foundation, and Global Justice, and
- d. The Public Defense Institute of Guatemala.

The regulatory amendments approved by the Court in January 2009, during this first stage were: regulation of the Court’s practice of holding special sessions away from its seat; adaptation of the Court’s operations to technological change; enabling the States to appoint the Agents they consider appropriate for their defense; empowerment of the Court or its President to require the State, the Commission or the representatives of the beneficiaries to present information on a request for provisional measures before taking a decision on it, and to require relevant data on the case from other sources of information that would allow it to assess the gravity and urgency of the situation and the effectiveness of the measures, as well as establishment of the possibility of holding public or private hearings on provisional measures; extension of the time frames for presenting briefs in the proceedings; regulation of the criteria for the presentation of *amici curiae* briefs; reclassification of the testimony of the presumed victims; standardization of the time frames and procedural occasions for objecting to a witnesses or challenging an expert witnesses;

elimination of references to the next of kin of the victims, in order to consider them presumed victims; creation of the possibility of commissioning the Court's Secretariat to conduct certain investigative measures in specific circumstances; establishment of criteria for the substitution of deponents; regulation of the Court's authority to appoint expert witnesses in contentious cases, and incorporation of rules concerning private hearings on monitoring compliance.

B. Eighty-third regular session of the Court

The Court held its eighty-third regular session in San José, Costa Rica from June 29 to July 11, 2009, with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica); and Rhadys Abreu Blondet (Dominican Republic). The following judges ad hoc also took part in the session: Einer Elías Biel Morales, appointed by the State of Venezuela for the case of *Reverón Trujillo*; Roberto de Figueiredo Caldas, appointed by the State of Brazil for the case of *Arley Escher et al.*; Víctor Oscar Shiyin García Toma, appointed by the State of Peru for the case of *Members of the Association of Dismissed and Retired Employees of the Comptroller General's Office*; and John Andrew Connell QC, appointed by the State of Barbados for the case of *DaCosta Cadogan*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held three public hearings on contentious cases, a public hearing on an advisory opinion and a public hearing concerning provisional measures. It also delivered four judgments in contentious cases, one of them on interpretation of judgment, and issued six orders on provisional measures. In addition it held eight private hearings on monitoring compliance with judgment and issued fifteen orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of Reverón Trujillo (Venezuela): *Judgment on preliminary objections, merits, reparations and costs.*²⁰ On June 30, 2009, the Court delivered judgment on preliminary objections, merits, reparations and costs in this case, and decided to reject the preliminary objection filed by the State and to declare, *inter alia*, that: the State had violated Article 25(1) (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, as well as Article 23(1)(c) (Right to Participate in Government) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, all to the detriment of Mrs. Reverón Trujillo; and the State had not violated the rights embodied in Articles 8(1) (Right to a Fair Trial) and 5(1) (Right to Humane Treatment) of the Convention.

Regarding reparations, the Court ordered, *inter alia*, that the State must: reinstate Mrs. Reverón Trujillo in a similar post to the one she occupied, with the same remuneration, social benefits and rank as those she would have had today if she had been reinstated opportunely and, to the contrary, it must pay her the amount established in the judgment; eliminate immediately from Mrs. Reverón Trujillo's personal file the final settlement statement indicating that the victim was dismissed; adopt, as soon as possible, the necessary measures to approve a Code of Ethics, if this has not yet been done; within a reasonable time, adapt its domestic laws to the American Convention by amending any norms and practices that consider that provisional judges can

²⁰ Judge Diego García-Sayán recused himself from hearing this case.

be freely removed; make the publications indicated in the judgment, and pay the amounts established in the judgment for pecuniary and non-pecuniary damage and reimbursement of costs and expenses.

Judge Einer Elías Biel Morales informed the Court of his dissenting opinion, which accompanies the judgment.

2. Case of Acevedo Buendía et al. (“Dismissed and Retired Employees of the Comptroller’s Office”) (Peru): *Judgment on preliminary objection, merits, reparations and costs.*²¹ On July 1, 2009, the Court delivered judgment on the preliminary objection, merits, reparations and costs in this case, deciding to reject the preliminary objection filed by the State and declaring, *inter alia*, that the State had violated the right embodied in Article 25(1) and 25(2)(c) (Right to Judicial Protection) of the American Convention and the right established in Article 21(1) and 21(2) (Right to Property) of the Convention, all in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the two hundred and seventy-three members of the Association of Dismissed and Retired Employees of the Office of the Comptroller General of the Republic of Peru.

Regarding reparations, the Court ordered, *inter alia*, that the State must: within a reasonable time, comply fully with the judgments of the Constitutional Court of Peru of October 21, 1997, and January 26, 2001, concerning reimbursement of the amounts owed and not received by the victims from April 1993 to October 2002, and that the payment of the said amounts owed and the interest should not be affected by any tax or charge; publish once in the official gazette and in another daily newspaper with widespread national circulation paragraphs 2 to 5, 17, 19, 52, 53, 61, 65, 69 to 79, 84 to 91, 104 to 107 and 113 of the judgment, without the corresponding footnotes and with the titles of the respective chapters, as well as the operative paragraphs; and pay the amounts established in the judgment for non-pecuniary damage and reimbursement of costs and expenses.

Judge García Ramírez and Judge *ad hoc* García Toma informed the Court of their respective separate opinions, which accompany the judgment.

3. Case of Escher et al. (Brazil): *Judgment on preliminary objections, merits, reparations and costs.* On July 6, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, deciding to reject the preliminary objections filed by the State and declaring, *inter alia*, that: the State had violated the right established in Article 11 (Right to Privacy) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Arlei José Escher, Dalton Luciano de Vargas, Delfino José Becker, Pedro Alves Cabral and Celso Aghinoni, owing to the interception, recording and dissemination of their telephone conversations; the State had violated the right established in Article 16 (Freedom of Association) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Arlei José Escher, Dalton Luciano de Vargas, Delfino José Becker, Pedro Alves Cabral and Celso Aghinoni, owing to modifications in the exercise of this right; the Court did not have any evidence proving the existence of a violation of the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention in relation to the *mandado de segurança* and to the civil actions examined in the case. However, the State had violated the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial

21 Judge Diego García-Sayán recused himself from hearing this case.

Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Arlei José Escher, Dalton Luciano de Vargas, Delfino José Becker, Pedro Alves Cabral and Celso Aghinoni, in relation to the criminal action filed against the former secretary of security, the failure to investigate those responsible for the initial dissemination of the telephone conversations, and the failure to provide grounds for the administrative decision concerning the functional conduct of the judge who authorized the telephone interception. In addition, the Court declared that the State had not failed to comply with Article 28 (Federal Clause) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Arlei José Escher, Dalton Luciano de Vargas, Delfino José Becker, Pedro Alves Cabral and Celso Aghinoni.

Regarding reparations, the Court ordered, *inter alia*, that the State must: publish once in the official gazette, and in another daily newspaper with widespread national circulation, and in a newspaper with widespread circulation in the State of Paraná, the cover page, Chapters I, VI to XI, without the footnotes, and the operative paragraphs of the judgment, and also publish the judgment in its entirety on an official web page of the Federal State and of the State of Paraná; investigate the facts that gave rise to the violations in the case; pay Arlei José Escher, Dalton Luciano de Vargas, Delfino José Becker, Pedro Alves Cabral and Celso Aghinoni the amounts established in the judgment for non-pecuniary damage and for reimbursement of costs and expenses.

Judges Sergio García Ramírez and Roberto de Figueiredo Caldas informed the Court of their separate concurring opinions, which accompany the judgment.

4. Case of Valle Jaramillo *et al.* (Colombia): *Judgment on interpretation of the judgment on merits, reparations and costs.* On July 7, 2009, the Court delivered judgment on the requests filed by the State and the representatives of the victims for interpretation of the judgment on merits, reparations and costs handed down by the Court on November 27, 2008, and decided, *inter alia*, to declare admissible the requests filed by the representatives and the State for interpretation of the judgment on merits, reparations and costs of November 27, 2008, in the case of Valle Jaramillo *et al.*; to determine the meaning and scope of the provisions of operative paragraphs 13, 15, 18, 19 and 20, and paragraph 230 of the judgment on merits, reparations and costs of November 27, 2008, and to reject, as irreceivable, the queries of the representatives described in paragraphs 14 and 42 of this judgment, insofar as they are not in keeping with the provisions of Article 67 of the Convention and Articles 29(3) and 59 of the Rules of Procedure.

5. Matter of Pérez Torres *et al.* (“Campo Algodonero”) (Mexico): *Provisional measures.* On July 6, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to ratify the order of the President of the Inter-American Court of Human Rights of April 24, 2009; to require the State to maintain any measures it had adopted and to adopt, forthwith, any necessary measures to protect the life and integrity of Rosa Isela Pérez Torres and her immediate next of kin; to require the State to forward to the Court the report indicated in considering paragraphs 24 and 25 of the order; to require the representatives of the beneficiaries and the Inter-American Commission to submit any observations they deemed pertinent on the said report of the State, and to reiterate to the State that it should continue to allow the beneficiaries to take part in the planning and implementation of the measures of protection and, in general, keep them informed of progress in the measures.

6. Case of Carpio Nicolle et al. (Guatemala): Provisional measures. On July 6, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to require the State to maintain and adopt the necessary measures to continue protecting the life and personal integrity of Karen Fischer, Daniela Carpio Fischer, Rodrigo Carpio Fischer, Martha Arrivillaga de Carpio, Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga, and Abraham Méndez García, his wife and children, for at least six months; to require the State to send the Court the report indicated in considering paragraph 31 of the order, as well as information on the implementation of the measures; to require the representatives of the beneficiaries and the Inter-American Commission to submit any observations they deemed pertinent on the said report of the State; and to reiterate to the State that it should continue to allow the beneficiaries to take part in the planning and implementation of the measures of protection and, in general, keep them informed of any progress in the measures

7. Case of the 19 Tradesmen (Colombia): Monitoring compliance with judgment and with the implementation of and need for the provisional measures. On July 8, 2009, the Court issued an order on monitoring compliance with judgment and provisional measures in this case, in which, in relation to monitoring compliance with judgment, it declared that, in addition to the provisions of previous orders, the State had complied with its obligations as established in the following operative paragraphs of the judgment on merits, reparations and costs handed down by the Court on July 5, 2004: (a) deposit the compensation ordered in favor of the beneficiaries who are minors in a banking investment in their names, in a solvent Colombian institution, in United States dollars, and in the most favorable financial conditions permitted by banking practice and law until they attain their majority; (b) take the necessary steps to locate the next of kin of Juan Bautista and Huber Pérez (possibly with Castaño as a second last name) and pay them the compensation that corresponds to them, and (c) reimburse costs and expenses. In addition, the Court declared that it would keep the procedure of monitoring compliance with judgment open in relation to the aspects pending full compliance, namely: (a) within a reasonable time, investigate effectively the facts of the case in order to identify, prosecute and sanction all the masterminds and perpetrators of the violations committed to the detriment of the 19 Tradesmen, for the crimes or any other effects that could result from the investigation into the facts, and publicize the result of this procedure; (b) within a reasonable time, conduct a genuine search, making every effort to determine with certainty what happened to the remains of the victims and, if possible, return them to the next of kin; (c) erect a monument to commemorate the victims and, during a public ceremony in the presence of the victims' next of kin, place a plaque with the names of the 19 tradesmen; (d) provide, free of charge, through the specialized health institutions, the medical and psychological treatment required by the victims' next of kin; (e) establish all the necessary conditions for the members of the family of the victim, Antonio Flórez Contreras, who went into exile to be able to return to Colombia if they so wish, and cover any expenses they incur if they return, and (f) pay the amounts established in the judgment for loss of earnings for each of the 19 victims, the expenses that the next of kin of eleven of the victims incurred, and compensation for non-pecuniary damage.

Furthermore, with regard to monitoring compliance with the judgment, the Court decided: to require the State of Colombia to adopt all necessary measures to comply effectively and promptly with any pending aspects of the judgment on merits, reparations and costs handed down in the case of the 19 Tradesmen; to ask the State of Colombia to present a report to the Inter-American Court indicating all the measures adopted to comply with the reparations ordered by the Court that remain pending, and to ask the representatives of the victims and the Inter-American Commission to submit any observations they deemed pertinent on the said report of the State.

Regarding the provisional measures in this case, the Court decided: to continue monitoring compliance with the obligation to ensure the life, integrity and safety of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo de Chaparro, Suney Dinora Jauregui Jaimes, Ofelia Sauza de Uribe, Rosalbina Suárez de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Vivescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes and their families, as indicated in the eleventh operative paragraph of the judgment, within the framework of the implementation of the provisional measures; to reiterate to the State of Colombia that it must maintain any measures it had adopted and adopt the necessary measures to protect the rights to the life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, William Rodríguez Quintero, Sandra Belinda Montero Fuentes, Juan Manuel Ayala Montero and María Paola Casanova Montero, and also of Salomón Flórez Contreras and Luis José Pundor Quintero and their respective families, and to this end, it must allow the beneficiaries of the measures or their representatives to take part in the planning and implementation of the measures and, in general, must keep them informed of progress in their execution, and to declare that the provisional measures ordered by the Inter-American Court in favor of Ana Diva Quintero Quintero de Pundor and her next of kin have become ineffective because they have left Colombia.

8. Case of the Members of the Community Studies and Psychosocial Action Team (ECAP), Plan de Sánchez Massacre (Guatemala): *Provisional measures.* On July 8, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to lift and terminate the provisional measures ordered by the Court in its orders of November 25, 2006, and November 26, 2007, in favor of Eugenia Judith Erazo Caravantes, Leonel Meoño, Carlos Miranda, Evelyn Lorena Morales, Dorcas Mux Casia, Víctor Catalan, Fredy Hernández, Olga Alicia Paz, Nieves Gómez, Paula María Martínez, Gloria Victoria Sunun, Dagmar Hilder, Magdalena Guzmán, Susana Navarro, Inés Meneses, Olinda Xocop, Felipe Sarti, María Chen Manuel, Andrea González, María Isabel Torresi, Celia Aidé López López, Jesús Méndez, Juan Alberto Jiménez, Fernando Suazo, Manuel Román, Mónica Pinzón, Maya Alvarado, Gloria Esquit, Carlos Paredes, Santiago Tziquic, Franc Kernaj, Lidia Pretzantzin Yoc, Bruce Osorio, Paula María López, Adder Samayoa, Glendy Mendoza, Jacinta de León, Pedro López, Claudia Hernández, Amalia Sub Chub, Anastasia Velásquez, Cruz Méndez, Isabel Domingo, Marisol Rodas, Luz Méndez, Magdalena Pedro Juan, Vilma Chub, Petrona Vásquez, Mariola Vicente, Joel Sosof, Ana Botán, Cristian Cermeño, Margarita Giron, Juan Carlos Martínez, Daniel Barczay and Evelyn Moreno, and to close the case file.

9. Case of Gutiérrez Soler (Colombia): *Provisional measures.* On July 9, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to require the State of Colombia to maintain the provisional measures it had adopted in order to protect the life and personal integrity of Wilson Gutiérrez Soler, Kevin Daniel Gutiérrez Niño, Ricardo Gutiérrez Soler, Yaqueline Reyes, Leonardo Gutiérrez Rubiano, Ricardo Gutiérrez Rubiano, Sulma Tatiana Gutiérrez Rubiano, Paula Camila Gutiérrez Reyes, Luisa Fernanda Gutiérrez Reyes, María Elena Soler de Gutiérrez, Carlos Andrés Gutiérrez Rubiano and Leydi Caterin Gutiérrez Peña; to require the State of Colombia to allow the beneficiaries or their representatives to take part in the planning and implementation of the measure of protection and, in general, to keep them informed of any progress in the provisional measures ordered by the Inter-American Court of Human Rights; and to require the State of Colombia to continue informing the Inter-American Court about the provisional measures adopted, and to require the representatives of the beneficiaries of the provisional measures and the Inter-American Commission to present their observations on these State reports.

10. Matter of Liliana Ortega (Venezuela): Provisional measures. On July 9, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to lift the provisional measures ordered by the Inter-American Court of Human Rights on November 27, 2002, February 21 and December 2, 2003, May 4, 2004, and March 1 and June 14, 2005, in favor of Liliana Ortega, Hilda Páez [Gilda Páez], Maritza Romero, Aura Liscano [Lizcano] and Alicia de González; and to close the case file.

11. Case of DaCosta Cadogan (Barbados): Preliminary objections, and possible merits, reparations and costs. On July 1, 2009, at a public hearing, the Court heard the final oral arguments of the Inter-American Commission on Human Rights, the State of Barbados and the representatives of the presumed victim on the preliminary objections and the possible merits, reparations and costs in this case.

12. Case of Oscar Barreto Leiva (Venezuela): Merits, and possible reparations and costs. On July 2, 2009, at a public hearing, the Court received the testimony of the presumed victim, the witnesses and expert witnesses proposed, as applicable, by the Inter-American Commission on Human Rights, the Bolivarian Republic of Venezuela, and the representatives of the presumed victim. In addition, the Court heard the final oral arguments of the parties on the merits and possible reparations and costs in this case.

13. Advisory opinion presented by Argentina. Public hearing. On July 3, 2009, the Court held a public hearing in order to receive the observations of the member States and organs of the Organization, as well as other organizations and individuals who had submitted *amici curiae* in relation to this request for an advisory opinion. At this hearing, there appeared before the Court representatives of the States of Argentina, Barbados, Colombia, El Salvador, Mexico and Guatemala; as well as representatives of the Inter-American Commission on Human Rights, the Center for Justice and International Law (CEJIL), the Colombian Jurists' Commission, the Human Rights Department of the Law School of the Universidad Nacional de Cuyo, and the Human Rights Clinic of the Law School of Seattle University. In addition, Elisa de Anda Madrazo, Guillermo José García Sánchez, Luis Peraza Parga and Miguel Ángel Lugo Galicia appeared in their individual capacity.

14. Case of Blanco Romero et al. (Venezuela): Monitoring compliance with judgment. On July 4, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and the representatives.

15. Case of Suárez Rosero (Ecuador): Monitoring compliance with judgment. On July 4, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and the representatives.

16. Case of El Caracazo (Venezuela): Monitoring compliance with judgment. On July 4, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and the representatives.

17. Case of Zambrano Vélez (Ecuador): Monitoring compliance with judgment. On July 4, 2009, the Court held a private hearing in order to obtain information from the State on compliance

with the judgment on merits, reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission. Following their convocation, the representatives of the next of kin of the victims stated that they would be unable to attend the hearing for lack of sufficient financial resources; consequently they were granted time to submit any observations they deemed pertinent before the hearing, and these were received.

18. Case of Radilla Pacheco (Mexico): *Preliminary objections, and possible merits, reparations and costs.* On July 7, 2009, at a public hearing, the Court received the testimony of the presumed victims, the witnesses and expert witnesses proposed by the Inter-American Commission on Human Rights, the State of Mexico and the representatives of the presumed victims. In addition, the Court heard the final oral arguments of the parties on the preliminary objections and the possible merits, reparations and costs in this case.

19. Matter of Haitians and Dominicans of Haitian Origin in the Dominican Republic (Dominican Republic): *Provisional measures.* On July 8, 2009, the Court held a public hearing in order to receive information and observations from the parties in relation to the provisional measures ordered in this matter.

20. Case of Juan Humberto Sánchez (Honduras): *Monitoring compliance with judgment.* On July 8, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on preliminary objections, merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and the representatives.

21. Case of the Yean and Bosico Girls (Dominican Republic): *Monitoring compliance with judgment.* On July 8, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on preliminary objections, merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and the representatives.

22. Case of Herrera Ulloa (Costa Rica): *Monitoring compliance with judgment.* On July 8, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on preliminary objections, merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and the representatives.

23. Case of the Dismissed Congressional Employees (Peru): *Monitoring compliance with judgment.* On July 8, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on preliminary objections, merits, reparations and costs handed down in this case and to hear the corresponding observations of the Inter-American Commission and of the representatives.

24. Orders on monitoring compliance with judgments: During this session, the Court issued orders on monitoring compliance with judgment in the following cases: *Gutiérrez Soler v. Colombia*, *Gómez Palomino v. Peru*, *Baena Ricardo et al. v. Panama*, *Plan de Sánchez Massacre v. Guatemala*, *Castañeda Gutman v. Mexico*, *Tibi v. Ecuador*, *Carpio Nicolle et al. v. Guatemala*, *Cantos v. Argentina*, *El Caracazo v. Venezuela*, *Blanco Romero et al. v. Venezuela*, *Ituango Massacres v. Colombia*, *the 19 Tradesmen v. Colombia*, *Mapiripán Massacre v. Colombia*, *Herrera Ulloa v. Costa Rica*, and *Pueblo Bello Massacre v. Colombia*.

C. Eighty-fourth regular session of the Court

The Court held its eighty-fourth regular session in San José, Costa Rica, from September 21 to October 3, 2009, with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). The following judges *ad hoc* also took part in the session: Víctor Oscar Shiyin García Toma, appointed by the State of Peru for the case of *Anzualdo Castro*; John Andrew Connell QC, appointed by the State of Barbados for the case of *DaCosta Cadogan*; Roberto de Figueiredo Caldas, appointed by the State of Brazil for the case of *Garibaldi*, and Diego Rodríguez Pinzón, appointed by the State of Ecuador for the case of *Salvador Chiriboga*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held a public hearing on a contentious case and two public hearings on provisional measures. It also delivered three judgments in contentious cases and issued an order on provisional measures. In addition it held six private hearings on monitoring compliance with judgment, one private hearing on implementation of provisional measures, and issued five orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Matter of A.J. et al. (Haiti): Provisional measures. On September 21, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of Human Rights of August 24, 2009, and, consequently, to require the State to adopt forthwith all necessary measures to protect the life and integrity of A. J., J. L., Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael and André Junior Laureore, taking into account the seriousness of the situation and the specific risk; to require the State to adopt, forthwith, all necessary measures to protect the life and integrity of the next of kin of the beneficiaries Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael and André Junior Laureore; and to require the State to take all pertinent measures to ensure that the measures of protection decided in the order are planned and implemented with the participation of the beneficiaries or their representatives, so that the said measures are provided diligently and effectively and, in general, to keep them informed of progress in the implementation of the measures.

2. Case of Kenneth Ney Anzualdo Castro (Peru): Judgment on preliminary objection, merits, reparations and costs.²² On September 22, 2009, the Court delivered judgment on the preliminary objection, merits, reparations and costs in this case, declaring, *inter alia*, that: the State is responsible for the forced disappearance of Kenneth Ney Anzualdo Castro and, consequently, violated the rights embodied in Articles 7(1) and 7(6) (Right to Personal Liberty), 5(1) and 5(2) (Right to Humane Treatment), 4(1) (Right to Life), and 3 (Right to Juridical Personality) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as well as in relation to Article I of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Kenneth Ney Anzualdo Castro. Furthermore, the Court declared that, owing to the forced disappearance of Kenneth Ney Anzualdo Castro, the State had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Articles 1(1) (Obligation

²² Judge Diego García-Sayán recused himself from hearing this case.

to Respect Rights) and 2 (Domestic Legal Effects) thereof, as well as Articles I(b) and III of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Félix Vicente Anzualdo Vicuña, Iris Isabel Castro Cachay de Anzualdo, Marly Arleny Anzualdo Castro and Rommel Darwin Anzualdo Castro. The Court also declared that the State had not violated Article 13 (Freedom of Thought and Expression) of the American Convention on Human Rights.

Regarding reparations, the Court ordered, *inter alia*, that the State must: conduct effectively the criminal actions that are underway or that are opened in the future in relation to the forced disappearance of Kenneth Ney Anzualdo Castro in order to determine, within a reasonable time, all the masterminds and perpetrators of the facts of this case and apply the sanctions and consequences established by law; to this end, it must remove all the obstacles, *de facto* and *de jure*, that prevent due investigation into the facts, and may not apply any law or provision of domestic law that exists or that is enacted in the future, to exempt itself from this obligation; proceed immediately to seek and find Kenneth Ney Anzualdo Castro or, at least, his mortal remains, either in the context of the criminal investigations or by any other appropriate and effective procedure; continue making every necessary effort to determine and identify those who disappeared during the internal conflict using the most effective scientific and technical means and, to the extent possible and scientifically recommendable, by standardizing the investigation criteria, and to this end it should establish a genetic information system that permits determining and clarifying the identification of the victims and who their parents are; adopt the necessary measures to reform, within a reasonable time, its criminal laws relating to the forced disappearance of persons in order to adapt them to international standards, especially the provisions of the American Convention and the Inter-American Convention on Forced Disappearance of Persons; implement, within a reasonable time, permanent human rights education programs for members of the intelligence services, the Armed Forces, and judges and prosecutors; publish once in the official gazette and in another daily newspaper with national circulation, paragraphs 30 to 203 and the operative paragraphs of the judgment; organize a public act to acknowledge responsibility for the forced disappearance of Kenneth Ney Anzualdo Castro and to make reparation to him and his next of kin; order that a plaque be placed in the *Museo de la Memoria*, in the presence of the next of kin, if they so wish, in a public ceremony; and order the necessary measures to ensure that the next of kin of Kenneth Ney Anzualdo Castro are provided with appropriate treatment, free of charge, by the public health care services, for the time necessary, including medication. Furthermore, the Court ordered that the State must pay the amounts established in the judgment for pecuniary and non-pecuniary damage and reimbursement of costs and expenses.

Judge García Ramírez informed the Court of his separate concurring opinion, and Judge *ad hoc* García Toma informed the Court of his partially dissenting opinion, both of which accompany the judgment.

3. Case of DaCosta Cadogan (Barbados): *Judgment on preliminary objections, merits, reparations and costs.* On September 24, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, in which it decided, *inter alia*, to reject the preliminary objections filed by the State and to annul the provisional measures ordered in favor of Tyrone DaCosta Cadogan, because it found that the State's obligations concerning the latter had been substituted by the obligations ordered in the judgment. Furthermore, the Court declared that the State had violated, to the detriment of Tyrone DaCosta Cadogan, the rights recognized in Article 4(1) and 4(2) (Right to Life) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof; that the State was not responsible for the violation of Article 5(1) and 5(2) (Right to Humane Treatment) of the Convention; that the State had failed

to comply with Article 2 (Domestic Legal Effects) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights), 4(1), 4(2) (Right to Life) and 25(1) (Right to Judicial Protection) thereof; that the State had violated, to the detriment of Tyrone DaCosta Cadogan, the rights recognized in Article 8(1), 8(2)(c) and 8(2)(f) (Right to a Fair Trial) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 4(1) (Right to Life) thereof; and that the State was not responsible for the violation of Article 8(2)(e) (Right to a Fair Trial) of the American Convention on Human Rights.

Regarding reparations, the Court ordered, *inter alia*, that the State must: adopt the legislative or other measures necessary to ensure that the Constitution and laws of Barbados are in accordance with the American Convention, in particular, Section 2 of the LDCP and Section 26 of the Constitution of Barbados; ensure that all those accused of a crime that is obligatorily sanctioned by capital punishment are informed at the outset of the criminal proceedings against them of their right to obtain a psychiatric evaluation by a State psychiatrist; annul and not execute the death penalty imposed on Mr. DaCosta Cadogan, and provide him with a hearing for the judicial determination of the appropriate punishment, without the need for a new trial, bearing in mind the particular characteristics of the crime and the participation and degree of guilt of Mr. DaCosta Cadogan, all the above taking into account the new legislative framework that the State of Barbados will adopt as a result of the legislative measures ordered by the Court to ensure that the imposition of capital punishment does not violate the rights and freedoms guaranteed in the Convention; not impose the death penalty on Mr. DaCosta Cadogan under the new legislative measures that this Court has ordered, and pay the amount established in the judgment for reimbursement of costs and expenses.

Judge Sergio García Ramírez informed the Court of his concurring opinion, which accompanies the judgment.

4. Case of Garibaldi (Brazil): *Judgment on preliminary objections, merits, reparations and costs.* On September 23, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, in which it decided to declare partially admissible the preliminary objection concerning jurisdiction *ratione temporis* filed by the State and to reject the other preliminary objections filed by the State. In addition, the Court declared, *inter alia*, that: the State had violated the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Iracema Garibaldi, Darsônia Garibaldi, Vanderlei Garibaldi, Fernando Garibaldi, Itamar Garibaldi, Itacir Garibaldi and Alexandre Garibaldi; and the State had not failed to comply with Article 28 (Federal Clause) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Iracema Garibaldi, Darsônia Garibaldi, Vanderlei Garibaldi, Fernando Garibaldi, Itamar Garibaldi, Itacir Garibaldi and Alexandre Garibaldi.

Regarding reparations, the Court ordered, *inter alia*, that the State must: publish once in the official gazette, in another daily newspaper with widespread national circulation, and in a newspaper with widespread circulation in the State of Paraná, the cover page, Chapters I, VI and VII, without the footnotes, and the operative paragraphs of the judgment, and also publish the judgment in full for at least one year on an appropriate official web page of the Federal State and of the State of Paraná, bearing in mind the characteristics of the publication ordered; conduct effectively and within a reasonable time the investigation and any proceeding that is opened as a result of the latter to identify, prosecute and eventually punish the authors of Mr. Garibaldi's

death, and also to investigate and, if appropriate, sanction the possible functional errors in which public officials in charge of the investigation may have incurred; pay Iracema Garibaldi, Darsônia Garibaldi, Vanderlei Garibaldi, Fernando Garibaldi, Itamar Garibaldi, Itacir Garibaldi and Alexandre Garibaldi, the amounts established in the judgment for pecuniary and non-pecuniary damage, and pay Iracema Garibaldi the amount established in the judgment for reimbursement of costs and expenses.

Judge Roberto de Figueiredo Caldas informed the Court of his separate concurring opinion, which accompanies the judgment.

5. Case of Salvador Chiriboga (Ecuador): Reparations and costs. On September 24, 2009, at a public hearing, the Court received the claims of the representatives of the victims, as well as the observations of the State and the Inter-American Commission on reparations and costs in this case.

6. Rules of Procedure of the Inter-American Court of Human Rights: Private deliberation. On September 25 and 26, 2009, the Court considered the observations forwarded by various stakeholders of the inter-American system for the protection of human rights, in the second stage of the process of reflection that the Court has been conducting on the reform of its Rules of Procedure.

7. Advisory opinion requested by Argentina: Private deliberation. On September 28 and 29, 2009, the Court considered the different observations and *amicus curiae* forwarded by various interested parties and began deliberating on the advisory opinion requested by the State of Argentina.

8. Matter of the Venezuelan Prisons (Venezuela): Provisional measures. On September 30, 2009, the Court held a public hearing in order to receive information and observations from the parties concerning the provisional measures ordered in the following matters: the Monagas Detention Center ("La Pica"), the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison), the Central Occidental Region Penitentiary Center (Uribana Prison), and the Capital Detention Center El Rodeo I and El Rodeo II, all with regard to the State of Venezuela.

9. Matter of the Urso Branco Prison (Brazil): Provisional measures. On September 30, 2009, the Court held a public hearing to receive the arguments of the State of Brazil, the Inter-American Commission, and the representatives of the beneficiaries of the current provisional measures.

10. Case of the "Children's Rehabilitation Institute" (Paraguay): Monitoring compliance with judgment. On September 30, 2009, at a private hearing, the Court received the arguments of the State, the Inter-American Commission, and the representatives of the victims on compliance with the judgment on preliminary objections, merits, reparations and costs handed down by the Court in this case on September 2, 2004.

11. Case of Montero Aranguren et al. (Catia Detention Center) (Venezuela): Monitoring compliance with judgment. On September 30, 2009, at a private hearing, the Court received the arguments of the State, the Inter-American Commission, and the representatives of the victims on compliance with the judgment on merits, reparations and costs handed down by the Court in this case on July 5, 2006.

12. Case of Myrna Mack Chang (Guatemala): *Monitoring compliance with judgment and with the implementation of and need for provisional measures.* On October 1, 2009, at a private hearing, the Court received the arguments of the State, the Inter-American Commission, and the representatives of the victims on the only aspect pending compliance of the judgment on merits, reparations and costs handed down by the Court in this case on November 25, 2003, as well as on the implementation and effectiveness of the provisional measures ordered in this case with regard to Guatemala.

13. Case of Molina Thiessen (Guatemala): *Monitoring compliance with judgment.* On October 1, 2009, at a private hearing, the Court heard the arguments of the State, the Inter-American Commission and the representatives of the victims on the aspects pending compliance of the judgment on reparations and costs handed down by the Court in this case on July 3, 2004.

14. Case of Goiburú et al. (Paraguay): *Monitoring compliance with judgment.* On October 1, 2009, at a private hearing, the Court received the arguments of the State of Paraguay, the Inter-American Commission, and the representative of the victims on compliance with the judgment on merits, reparations and costs handed down by the Court in this case on September 22, 2006.

15. Case of Trujillo Oroza (Bolivia): *Monitoring compliance with judgment.* On October 1, 2009, at a private hearing, the Court received the arguments of the State, the Inter-American Commission, and the representatives of the next of kin of the victims on compliance with the judgment on reparations and costs handed down by the Court in this case on February 27, 2002.

16. Orders on monitoring compliance with judgments: During this session the Court issued orders on monitoring compliance with the judgments delivered in the following cases: *El Caracazo v. Venezuela*, *Cantoral Huamaní* and *García Santa Cruz v. Peru*, *Palamara Iribarne v. Chile*, *Ximenes Lopes v. Brazil*, and *Zambrano Vélez et al. v. Ecuador*.

D. Eighty-fifth regular session of the Court

The Court held its eighty-fifth regular session in San José, Costa Rica, from November 16 to 28, 2009, with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). The following judges *ad hoc* also took part in the session: Rosa María Álvarez González, appointed by the State of Mexico for the case of *González et al. ("Campo Algodonero")*; and Ramón Cadena Rámila, appointed by the State of Guatemala for the case of the *Dos Erres Massacre*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court handed down seven judgments on contentious cases, two of them on interpretation of judgment, and issued nine orders on provisional measures. It also issued an advisory opinion, and twelve orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of González et al. ("Campo Algodonero") (Mexico): *Judgment on preliminary objection, merits, reparations and costs*²³. On November 16, 2009, the Court delivered judgment

23 On December 15, 2007, the President of the Court at the time, Judge Sergio García Ramírez, a Mexican national, ceded the Presidency to Judge Cecilia Medina Quiroga and advised the Court that he recused himself from hearing this case.

on the preliminary objection, the merits, reparations and costs in this case, in which it decided, *inter alia*, to accept partially the preliminary objection filed by the State and, consequently, to declare that: (i) it has contentious jurisdiction *rationae materiae* to examine alleged violations of Article 7 of the Convention of Belém do Pará, and (ii) it does not have contentious jurisdiction *rationae materiae* to examine supposed violations of Articles 8 and 9 of that international instrument, and to accept the partial acknowledgement of international responsibility made by the State. Regarding the merits, the Court declared, *inter alia*, that: the State cannot be attributed with international responsibility for violations of the substantive rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment) and 7(1) (Right to Personal Liberty) of the American Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, as well as the obligations established in Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal; the State failed to comply with its obligation to investigate – and thereby guarantee – the rights established in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment) and 7(1) (Right to Personal Liberty) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and to Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal. On the same grounds, the State violated the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof and 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of: Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos; the State violated the obligation not to discriminate contained in Article 1(1) (Obligation to Respect Rights) of the American Convention, in relation to the obligation to ensure the rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), and 7(1) (Right to Personal Liberty) thereof, to the detriment of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González; and also in relation to access to justice embodied in Articles 8(1) and 25(1) of the said Convention, to the detriment of Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos; the State violated the right embodied in Article 19 (Right of the Child) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of the minors, Esmeraldo Herrera Monreal and Laura Berenice Ramos Monárrez; the State violated the right embodied in Article 5(1) and 5(2) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, owing to the suffering caused to Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas,

Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos; the State violated the right embodied in Article 5(1) and 5(2) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, owing to the acts of harassment suffered by Adrián Herrera Monreal, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos; and the State did not violate the right embodied in Article 11 (Right to Privacy [Honor and Dignity]) of the American Convention.

With regard to reparations, the Court ordered, *inter alia*, that the State must conduct the criminal proceedings that are underway conscientiously and, if applicable, any that are opened in the future to identify, prosecute and, if appropriate, sanction the perpetrators and masterminds of the disappearance, ill-treatment and deprivation of life of the young women, González, Herrera and Ramos, in accordance with the following directives: (a) All legal or factual impediments to the due investigation of the facts and the execution of the respective judicial proceedings shall be removed, and all available means used to ensure that the investigations and judicial proceedings are prompt so as to avoid a repetition of the same or similar acts as those in the instant case; (b) the investigation shall include a gender perspective; undertake specific lines of inquiry concerning sexual violence, which must involve lines of inquiry into the respective patterns in the zone; be conducted in accordance with protocols and manuals that comply with the directives set out in this judgment; provide the victims' next of kin with information on progress in the investigation regularly and give them full access to the case files, and be conducted by officials who are highly trained in similar cases and in dealing with victims of discrimination and gender-based violence; (c) the different entities that take part in the investigation procedures and in the judicial proceedings shall have the necessary human and material resources to perform their tasks satisfactorily, independently and impartially, and those who take part in the investigations shall be given due guarantees of their safety, and (d) the results of the proceedings shall be published so that Mexican society is aware of the facts that are the purpose of the instant case. In addition, the State shall: investigate, through the competent public institutions, the officials accused of irregularities and, after appropriate proceedings, apply the corresponding administrative, disciplinary or criminal sanctions to those found responsible; conduct the corresponding investigation and, if appropriate, sanction those responsible for the harassment of Adrián Herrera Monreal, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos; publish once in the official gazette of the Federation, in a daily newspaper with widespread national circulation and in a daily newspaper that circulates widely in the State of Chihuahua, paragraphs 113 to 136, 146 to 168, 171 to 181, 185 to 195, 198 to 209 and 212 to 221 of this judgment without the corresponding footnotes, and the operative paragraphs, and also publish the entire judgment on an official web page of the State; organize a public act of acknowledgement of international responsibility in relation to the facts of this case to honor the memory of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González; erect a monument in memory of the women victims of gender-based murder in Ciudad Juárez, to be unveiled at the ceremony during which the State publicly acknowledges its international responsibility; continue standardizing all its protocols, manuals, legal investigation criteria, expert services, and services to provide justice, which are used to investigate all the crimes relating to the disappearance, sexual abuse and murder of women, in accordance with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation

of Extralegal, Arbitrary and Summary Executions, and the international standards for searching for disappeared persons, based on a gender perspective, and provide an annual report for three years.

In addition, the State must: adapt the Alba Protocol or else implement a similar new mechanism, pursuant to the following directives, and present an annual report for three years: (i) implement searches *ex officio* and without any delay, in cases of disappearance, as a measure designed to protect the life, personal liberty and personal integrity of the disappeared person; (ii) establish coordination among the different security agencies in order to find that person; (iii) eliminate any factual or legal impediment that reduces the effectiveness of the search or that prevents it from starting, such as requiring preliminary inquiries or procedures; (iv) allocate the human, financial, logistic, scientific or any other type of resource required for the success of the search; (v) check the missing report against the database of disappeared persons, and (vi) give priority to searching areas where reason dictates that it is most probable to find the disappeared person, without disregarding arbitrarily other possibilities or areas. All of the above must be even more urgent and rigorous in the case of the disappearance of a girl child. In this regard, an annual report shall be presented for three years. Furthermore, it must: create a web page, to be continually updated with the necessary personal information on all the women and girls who have disappeared in Chihuahua since 1993 and who continue disappeared, which will allow any individual to communicate with the authorities by any means, including anonymously, to provide relevant information on the whereabouts of the disappeared women or girls or, if applicable, of their remains; create or update a database with: (i) the personal information available on disappeared women and girls at the national level; (ii) the necessary personal information, principally DNA and tissue samples, of the next of kin of the disappeared who consent to this – or that is ordered by a judge – so that the State can store this personal information solely in order to locate a disappeared person, and (iii) the genetic information and tissue samples from the body of any unidentified woman or girl deprived of life in the State of Chihuahua; continue implementing permanent education and training programs and courses for public officials on human rights and gender, and on a gender perspective to ensure due diligence in conducting preliminary inquiries and judicial proceedings concerning gender-based discrimination, and the abuse and murder of women, and to overcome stereotyping of a woman's role in society, and provide an annual report on the implementation of the courses and training sessions; conduct an education program for the general population of the State of Chihuahua, in order to overcome the said situation. In this regard, the State shall present an annual report for three years, indicating the measures it has taken to this end, and provide appropriate and effective medical, psychological or psychiatric treatment, immediately and free of charge, through specialized state health institutions to Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos, if they so wish. Lastly, the State must pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses.

Judge Cecilia Medina Quiroga and Judge Diego García-Sayán informed the Court of their concurring opinions, which accompany the judgment.

2. Case of Mack *et al.* (Guatemala): Provisional measures. On November 16, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to lift the provisional measures in favor of the beneficiaries Jorge Guillermo Lemus Alvarado and his next of kin, and of Luis Roberto Romero Rivera; to require the State to maintain any measures it had adopted and to adopt any necessary measures to protect the rights to life and to personal integrity of Helen Mack Chang and her next of kin, Zoila Esperanza Chang Lau (mother) Marco Antonio Mack Chang (brother), Freddy Mack Chang (brother), Vivian Mack Chang sister), Ronald Chang Apuy (cousin), Lucrecia Hernández Mack (daughter) and her children, and of the members of the Myrna Mack Chang Foundation; to require the State to implement the provisional measures in agreement with the beneficiaries of the measures or their representatives in order to ensure the effective protection of their rights, and to reiterate to the State that it should continue informing the Court every two months on the provisional measures adopted, and to require the beneficiaries of the measures or their representative and the Inter-American Commission to submit their observations on the State's reports.

3. Case of Oscar Barreto Leiva (Venezuela): Judgment on merits, reparations and costs.²⁴ On November 17, 2009, the Court delivered judgment on the merits, reparations and costs in this case, in which it declared, *inter alia*, that: the State had violated the right to prior communication in detail of the charges embodied in Article 8(2)(b) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mr. Barreto Leiva; the State had violated the right to adequate time and means for the preparation of a defense, established in Article 8(2)(c) (Right to a Fair Trial) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Mr. Barreto Leiva; the State had violated the right of the accused to be assisted by legal counsel of his own choosing, embodied in Article 8(2)(d) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mr. Barreto Leiva; the State had not violated the right to examine witnesses present in the court and to obtain the appearance of witnesses or experts recognized in Article 8(2)(f) (Right to a Fair Trial) of the American Convention; the State had not violated the right recognized in Article 8(1) (Right to a Fair Trial) of the Convention to be tried by a competent judge; the State had violated the right to appeal the judgment, embodied in Article 8(2)(h) (Right to a Fair Trial) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Mr. Barreto Leiva; the State had not violated Mr. Barreto Leiva's right to be tried by an impartial court recognized in Article 8(1) (Right to a Fair Trial) of the American Convention; the State had not violated the right established in Article 25(1) (Right to Judicial Protection) of the American Convention; the State had violated the rights recognized in Article 7(1) and 7(3) (Right to Personal Liberty) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Mr. Barreto Leiva; and the State had violated the right to personal liberty, the right to a reasonable time of pre-trial detention and the right to presumption of innocence established in Articles 7(1), 7(5) (Right to Personal Liberty) and 8(2) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mr. Barreto Leiva.

24 For reasons beyond their control, the President of the Court, Judge Cecilia Medina Quiroga, and Judge Leonardo A. Franco did not take part in the deliberation and signature of this judgment. The Vice President of the Court, Judge Diego García-Sayán, assumed the Presidency, in accordance with Article 5(1) of the Court's Rules of Procedure.

With regard to reparations, the Court ordered, *inter alia*, that the State must: grant Mr. Barreto Leiva, through its Judiciary and if he so wishes, the ability to appeal the judgment and have the sentence convicting him referred to in this judgment reviewed in its entirety and, if the court rules that the conviction was in conformity with the law, it will not impose any additional punishment on the victim and will reiterate that he has complied with all the sentences that were imposed on him or if, to the contrary, the court decides that Mr. Barreto Leiva is innocent or that the sentence imposed did not conform to the law, it will order the measures of reparation that it considers appropriate based on the time that Mr. Barreto Leiva was deprived of his liberty and all the pecuniary and non-pecuniary damage caused; adapt its domestic law, so that it guarantees the right to appeal a judgment, in accordance with Article 8(2)(h) (Right to a Fair Trial) of the Convention, to any person tried for a crime, even those who enjoy special privileges; publish once in the official gazette and in another newspaper with widespread national coverage, the paragraphs of the judgment indicated in paragraph 137 thereto, without the footnotes, and its operative paragraphs, and pay the amounts established in the judgment as compensation for non-pecuniary damage and reimbursement of costs and expenses.

4. Matter of Guerrero Larez (Venezuela): Provisional measures. On November 17, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to require the State to adopt forthwith all necessary measures to determine the situation and whereabouts of Francisco Dionel Guerrero Larez and to protect his life and personal integrity; to require the State to inform the Inter-American Court about the measures taken to comply with the provisions of the first operative paragraph of the order, so that this report of the State could be examined by the Court at its seat, during its eighty-fifth regular session; to require the State to provide information to the Court every two months on the provisional measures adopted in compliance with this decision; to request the beneficiary's representatives and the Inter-American Commission to submit to the Court any observations they deemed pertinent on the report mentioned in the second operative paragraph of the order, and to request the beneficiary's representatives and the Commission to submit their observations within the time frame established by the Court in the order.

5. Matter of the Jiguamiandó and the Curbaradó Communities (Colombia): Provisional measures. On November 17, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to determine that the beneficiaries of these provisional measures are the members of the 161 families who reside in the Biodiversity and Humanitarian Zones of the Jiguamiandó and the Curbaradó, who comprise a group of identifiable and determinable persons.

6. Case of the La Rochela Massacre (Colombia): Provisional measures. On November 19, 2009, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*: to require the State to adopt, forthwith, all necessary measures to protect the life and personal integrity of Paola Martínez Ortiz, Luz Nelly Carvajal Londoño and Esperanza Uribe Mantilla; to require the State to take all pertinent measures to ensure that the measures of protection decided in the order were planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the said measures were provided diligently and effectively and that, in general, it maintain them informed about any progress in the implementation of the measures; to require the State to inform the Court about the steps taken to implement the provisional measures decided in the order, and to continue reporting in this regard every two months, and to request the representatives of the beneficiaries of the measures and the Inter-American Commission to submit their observations on the State's reports.

7. Case of Usón Ramírez (Venezuela): *Judgment on preliminary objection, merits, reparations and costs.*²⁵ On November 20, 2009, the Court delivered judgment on the preliminary objection, the merits, reparations and costs in this case, and decided, *inter alia*: to reject the preliminary objection filed by the State, and to declare that: the State had violated the right embodied in Articles 9 (Freedom from *Ex Post Facto* Laws) and 13(1) and 13(2) (Freedom of Thought and Expression) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Francisco Usón Ramírez; the State had violated the rights recognized in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Francisco Usón Ramírez; the State had violated the right established in Article 7 (Right to Personal Liberty) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Francisco Usón Ramírez, and the State had failed to comply with the obligation stipulated in Article 2 (Domestic Legal Effects) of the American Convention, in relation to Articles 9 (Freedom from *Ex Post Facto* Laws), 13(1) and 13(2) (Freedom of Thought and Expression) and 8(1) (Right to a Fair Trial) thereof.

With regard to reparations, the Court ordered, *inter alia*, that the State must: annul the military criminal proceedings filed against Francisco Usón Ramírez for the facts that are the subject of the judgment, adopting the judicial, administrative or any other type of measures required to do this; establish, by law, limits to the jurisdiction of the military courts, so that the military jurisdiction is only applied to soldiers in active service and for offenses committed during the course of duties, and also repeal all provisions of Venezuelan domestic law that are not in accordance with this criterion; amend article 505 of the Organic Military Justice Code; publish once in the official gazette and in another newspaper with widespread national coverage, paragraphs 2 to 5, 22, 23, 36 to 49, 55 to 58, 62 to 68, 72 to 75, 78 to 88, 92 to 94, 98 to 100, 103, 107 to 120, 124, 128 to 132, 137 to 150, 154 to 157 and 162 of the judgment, with the respective headings and sub-headings and without the footnotes, and with its operative paragraphs, and also publish the entire judgment for at least one year on an appropriate official web site of the State, taking into account the characteristics of the publication that it has been ordered to make, and to pay Francisco Usón Ramírez the amounts established in the judgment for pecuniary and non-pecuniary damage and reimbursement of costs and expenses.

Judge Sergio García Ramírez informed the Court of his separate opinion, which accompanies the judgment.

8. Case of Escher et al. (Brazil): *Judgment on interpretation of the judgment on preliminary objections, merits, reparations and costs.*²⁶ On November 20, 2009, the Court delivered judgment on the request filed by the victims' representatives for interpretation of the judgment on preliminary objections, merits, reparations and costs handed down by the Court on July 6, 2009, deciding,

25 For reasons beyond their control, the President of the Court, Judge Cecilia Medina Quiroga, and Judge Leonardo A. Franco did not take part in the deliberation and signature of this order. The Vice President of the Court, Judge Diego García-Sayán, assumed the Presidency, in accordance with Article 5(1) of the Court's Rules of Procedure.

26 Judges Cecilia Medina Quiroga and Leonardo A. Franco advised the Court that, for reasons beyond their control, they were unable to take part in the deliberation and signature of this judgment on interpretation. Consequently, Judge Medina Quiroga ceded the Presidency, in the terms of Article 4(3) of the Rules of Procedure, to the Vice President of the Court, Judge García-Sayán, who became acting President for the case.

inter alia, to declare admissible the request for interpretation of the judgment on preliminary objections, merits, reparations and costs in this case filed by the victims' representatives, and to determine the meaning and scope of the provisions of the said judgment. In this regard, the Court indicated the facts that the State had an obligation to investigate. First, paragraph 247 of the judgment expressly indicates the conducts that must be investigated and the corresponding criminal action, if this is the consequence: (a) "the dissemination of telephone conversations, [...] against the former secretary of security," which appears in the first sentence of the paragraph, and (b) "the handing over and dissemination of the tapes with the recorded conversations to one of the media," which appears in the second sentence. In addition, in order to clarify any possible erroneous interpretation, this same paragraph explicitly refers to paragraphs 204 and 205 of the judgment, which clearly define the facts that must be investigated. Moreover, the same paragraph 247 expressly clarifies that "regarding the other violations found," the reparations that the Court considered pertinent were the delivery of the judgment, its publication, and the compensation for non-pecuniary damage.

9. Case of Radilla Pacheco (Mexico): *Judgment on preliminary objections, merits, reparations and costs.*²⁷ On November 23, 2009, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case, in which it decided, *inter alia*, to reject the preliminary objections filed by the United Mexican States and to accept the partial acknowledgement of international responsibility made by the State. Furthermore, it declared that: the State was responsible for violating the rights embodied in Articles 7(1) (Right to Personal Liberty), 5(1) and 5(2) (Right to Humane Treatment), 3 (Right to Juridical Personality) and 4(1) (Right to Life) of the American Convention, in relation to the obligation contained in Article 1(1) (Obligation to Respect Rights) thereof and to Articles I and XI of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Rosendo Radilla Pacheco; the State was responsible for violating the right embodied in Articles 5(1) and 5(2) (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Tita, Andrea and Rosendo, all with the last names Radilla Martínez; the State was responsible for violating the rights recognized in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof and Articles I(a), (b) and (d), IX and XIX of the Inter-American Convention on Forced Disappearance of Persons to the detriment of Tita, Andrea and Rosendo, all with the last names Radilla Martínez, and the State had failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the American Convention, in relation to Articles I and III of the Inter-American Convention on Forced Disappearance of Persons, as regards defining the forced disappearance of persons as an offense.

Regarding reparations, the Court ordered, *inter alia*, that the State must: conduct the investigation effectively and with due diligence and, if applicable, any criminal proceedings in relation to the detention and subsequent forced disappearance of Rosendo Radilla Pacheco, to determine the corresponding criminal responsibilities and apply the sanctions and consequences provided by law; continue the search for and prompt finding of Rosendo Radilla Pacheco or his mortal remains; adopt the pertinent legislative reforms to harmonize article 57 of the Code of Military Justice with the relevant international standards and the American Convention on Human Rights; adopt the pertinent legislative reforms to harmonize article 215 A of the Federal Penal Code to the relevant

²⁷ On May 4, 2008, Judge Sergio García Ramírez recused himself from taking part in this case, because he was "a national of the defendant State." In addition, Judge Leonardo A. Franco informed the Court that, for reasons beyond his control, he was unable to take part in the deliberation and signature of this judgment.

international standards and the Inter-American Convention on Forced Disappearance of Persons; implement, with the necessary budgetary provisions, permanent programs or courses to examine the case law of the inter-American system for the protection of human rights in relation to the limits of the military criminal jurisdiction, as well as a training program on the due investigation and prosecution of facts that constitute forced disappearance of persons; publish once in the official gazette of the Federation and in another national newspaper with widespread circulation, paragraphs 1 to 7, 52 to 66 and 114 to 358 of the judgment, without the footnotes, and its operative paragraphs, and publish the entire judgment on the official web site of the Attorney General of the Republic; organize a public act to acknowledge responsibility for the facts of the instant case and to make reparation to the memory of Rosendo Radilla Pacheco; profile the life of Rosendo Radilla Pacheco; provide free, appropriate and effective psychological and/or psychiatric treatment, through its specialized public health care institutions, to those declared victims in the judgment that request it, and pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses as ordered.

10. Case of the Dos Erres Massacre (Guatemala): *Judgment on preliminary objection, merits, reparations and costs.*²⁸ On November 24, 2009, the Court delivered judgment on the preliminary objection, merits, reparations and costs in this case, in which it decided, *inter alia*, to reject partially the preliminary objection *ratione temporis* filed by the State, and to declare that: it accepted the partial acknowledgement of international responsibility made by the State, and that the State had violated the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as well as the obligations established in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture and in Article 7(b) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women to the detriment of the 155 victims in this case, in their respective circumstances; the State had failed to comply with the obligations embodied in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the Convention; the State had violated the rights established in Articles 17 (Rights of the Family) and 18 (Right to a Name) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and Article 19 (Right of the Child) thereof, to the detriment of Ramiro Antonio Osorio Cristales; the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of 153 victims; the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 19 (Right of the Child) thereof, to the detriment of Ramiro Antonio Osorio Cristales and Salomé Armando Gómez Hernández; and it was not in order to rule on the alleged violation of the right embodied in Article 21 (Right to Property) of the Convention.

Regarding reparations, the Court ordered, *inter alia*, that the State must: investigate, immediately, conscientiously and effectively the facts that gave rise to the violations declared in the judgment in order to prosecute and, eventually, punish those presumably responsible; initiate all pertinent disciplinary, administrative or criminal actions, under domestic law, against the State authorities who may have committed the facts or obstructed the investigation into them; adopt pertinent measures to reform the Law on Amparo, Habeas Corpus and Constitutionality in Guatemala;

28 For reasons beyond his control, Judge Leonardo A. Franco did not take part in the deliberation and signature of this judgment. In addition, the Secretary of the Court, Pablo Saavedra Alessandri, was not present when this case was decided, for reasons beyond his control.

proceed to exhume, identify and return the remains of those who died in the Dos Erres Massacre to their next of kin; implement training courses on human rights for the different State authorities; publish once in the official gazette and in another national newspaper Chapters I, VIII; IX and X; paragraph 222 of Chapter XI, and paragraphs 225, 229 to 236, 238 to 242, 244 to 249, 251 to 254, 256, 259 to 264, 265, 268 to 270, 271 to 274 and 283 to 291 of Chapter XII of the judgment, without the corresponding footnotes but including the titles of the respective chapter and section, and also the operative paragraphs, and also publish the entire judgment for at least one year on an appropriate official website of the State; carry out the public acts ordered in the judgment; erect a monument; provide the medical and psychological treatment that the 155 victims require; create a web page to search for the children who were unlawfully removed and retained, and pay the amounts established in the judgment as compensation for non-pecuniary damage and reimbursement of costs and expenses.

Judge Cadena Rámila informed the Court of his concurring opinion, which accompanies the judgment.

11. Case of Acevedo Buendía *et al.* (“Dismissed and Retired Employees of the Office of the Comptroller General of the Republic”) (Peru): *Judgment on interpretation of the judgment on the preliminary objection, merits, reparations and costs.*²⁹ On November 24, 2009, the Court delivered judgment with regard to the State’s request for interpretation of the judgment on the preliminary objection, merits, reparations and costs in this case handed down by the Court on July 1, 2009, and decided, *inter alia*, to declare admissible the State’s request for interpretation of the judgment on the preliminary objection, merits, reparations and costs, and to determine the meaning and scope of the provisions of the said judgment. In this regard, the Court indicated that the reimbursement of costs and expenses should be made directly to the Association of Dismissed and Retired Employees composed of all the two hundred and seventy-three victims in this case.

12. Matters of the Monagas Judicial Detention Center (“La Pica”); the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Central Occidental Region Penitentiary Center (Uribana Prison), and the Capital Judicial Detention Center El Rodeo I and El Rodeo I (Venezuela): *Provisional measures.* On November 24, 2009, the Court issued an order on provisional measures in these matters, in which it decided, *inter alia*, to require the State to maintain and adopt the necessary measures to continue protecting the life and personal integrity of the beneficiaries in the following four penitentiary centers: the Monagas Judicial Detention Center (“La Pica”); the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Central Occidental Region Penitentiary Center (Uribana Prison), and the Capital Judicial Detention Center El Rodeo I and El Rodeo I (Venezuela); to require the State to adopt the necessary measures to protect the life and personal integrity of Humberto Prado, and to require the State to forward a report every two months referring specifically to the measures that it was adopting to protect the life and integrity of the beneficiaries, and the Inter-American Commission and the representatives of the beneficiaries to submit their observations on these reports; to require the State to hold discussions with the beneficiaries’ representatives in order to complete the procedures required to grant them the permission they are requesting to enter the

29 Judge Leonardo A. Franco informed the Court that, for reasons beyond his control, he was unable to take part in the deliberation and signature of this judgment. Judge *ad hoc* Víctor Oscar Shiyín García Toma did not take part in the deliberation and signature of this judgment but, when consulted in this regard, he endorsed the ruling handed down by the Court. Judge Diego García-Sayán, a Peruvian national, recused himself from hearing this case.

penitentiary centers and, for the reasons set out in the order, to reject the request made by the beneficiaries' representatives to expand the measures to include Marianela Sánchez, María Inés García, Miriam Bolívar, Carlos Alberto Nieto Palma, Emil Niño and Wilmer Linero.

13. Matter of the Urso Branco Prison (Brazil): Provisional measures. On November 25, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to reiterate to the State that it continue to adopt immediately any necessary measures to protect the life and integrity of all those deprived of liberty in the Urso Branco Prison, as well as that of all those who enter the prison, including visitors and the security agents who work there; to reiterate to the State that it take all pertinent measures to ensure that the measures to protect life and personal integrity are planned and implemented with the participation of the beneficiaries' representatives and that, in general, it keep them informed about progress in the execution of the measures; to require the State to present its next report on compliance with the measures indicated to the Inter-American Court; to require the State to continue reporting to the Inter-American Court every three months on the implementation of the measures indicated, and to require the beneficiaries' representatives and the Inter-American Commission to submit their observations on the State's quarterly reports.

14. Advisory Opinion OC-20/09 (Article 55 of the American Convention on Human Rights): Requested by the Argentine Republic. On September 29, 2009, the Court issued Advisory Opinion OC-20, on the request presented by the State of Argentina concerning the mechanism of judge *ad hoc*, in which it decided, *inter alia*, that it was competent to emit the advisory opinion; that, according to Article 55(3) of the American Convention on Human Rights, the possibility for States Parties to a case submitted to the consideration of the Inter-American Court to appoint a judge *ad hoc* to serve on the Court, when there is no judge of its nationality, is restricted to contentious cases arising from inter-State communications (Article 45 of this instrument), and that it is not possible to derive a similar right in favor of States Parties in cases arising from individual petitions (Article 44 of the Convention); and that a national judge of the defendant State should not take part in the hearing of contentious cases arising from individual petitions.

Judge García Ramírez advised the Court of his concurring opinion, which accompanies the advisory opinion.

15. Reform of the Court's Rules of Procedure: During this session, the Court issued the most recent reform of its Rules of Procedure, that will enter into force since January 1, 2010. Within the framework of the second phase of dialogue and reflection that, for some time, the Court has been undertaking with the different actors and users of the inter-American system for the promotion and protection of human rights, and based on which, an initial reform to the Rules of Procedure was made in January 2009.

16. Orders on monitoring compliance with judgment: During this session, the Court issued orders on monitoring compliance with the judgments handed down in the following cases: *La Cantuta v. Peru*, *Cantoral Benavides v. Peru*, *Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru*, *Goiburú et al. v. Paraguay*, *Caballero Delgado and Santana v. Colombia*, *Trujillo Oroza v. Bolivia*, *Molina Thiessen v. Guatemala*, *Myrna Mack Chang v. Guatemala*, *Ivcher Bronstein v. Peru*, *Montero Aranguren et al. (Retén de Catia) v. Venezuela*, *Children's Rehabilitation Institute v. Paraguay* and *Five Pensioners v. Peru*.

17. Election of the new President and Vice President of the Court: During this session, the Court unanimously elected the Peruvian Judge, Diego García-Sayán, as President, and the Argentine Judge, A. Franco, as Vice President for a two-year period starting on January 1, 2010.

II.b SPECIAL SESSIONS

A. Thirty-eighth special session of the Court

The Court held its thirty-eighth special session in Santo Domingo, Dominican Republic, from March 30 to April 3, 2009,³⁰ with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhady Abreu Blondet (Dominican Republic). The following judges *ad hoc* also took part in the session: Víctor Oscar Shiyin García-Toma, appointed by the State of Peru for the case of *Anzualdo Castro*; and Leo Valladares Lanza, appointed by the State of Honduras for the case of *Kawas Fernández*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held two public hearings on contentious cases and one private hearing on monitoring compliance with judgment. In addition, the Court delivered judgment in a contentious case, and issued two orders on provisional measures and three orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of Ivcher Bronstein (Peru): *Monitoring compliance with judgment.*³¹ On March 31, 2009, the Court held a private hearing in order to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and of the representatives.

2. Case of Usón Ramírez (Venezuela): *Preliminary objection, and possible merits, reparations and costs.* On April 1, 2009, at a public hearing, the Court heard the testimony of a witness proposed by the Inter-American Commission on Human Rights, a witness proposed by the presumed victim's representatives, and an expert witness proposed by the State of the Bolivarian Republic of Venezuela. The Court also heard the final oral arguments of the Commission, the representatives and the State on the preliminary objection, and possible merits, reparations and costs in this case.

3. Case of Anzualdo Castro (Peru): *Preliminary objection, and possible merits, reparations and costs.*³² On April 2, 2009, at a public hearing, the Court heard the testimony of two witnesses and an expert witness proposed by the Inter-American Commission on Human Rights and the representatives of the presumed victims. In addition, the Court heard the final oral arguments

30 The thirty-eighth special session was held with funding from the Ministry of Foreign Affairs of Norway.

31 Judge Diego García-Sayán, a Peruvian national, recused himself from the proceedings on monitoring compliance in this case, pursuant to Articles 19(2) of the Court's Statute and 20 of its Rules of Procedure.

32 Judge Diego García-Sayán, a Peruvian national, recused himself from the proceedings on monitoring compliance in this case, pursuant to Articles 19(2) of the Court's Statute and 20 of its Rules of Procedure.

of the Commission, the representatives and the State of Peru on the preliminary objection, and possible merits, reparations and costs in this case.

4. Case of Kawas Fernández (Honduras): *Judgment on merits, reparations and costs.* On April 3, 2009, the Court delivered judgment on the merits, reparations and costs in this case, declaring that: it accepted the State's partial acknowledgement of international responsibility, and stated that there had been a violation of the right to judicial guarantees and the right to judicial protection established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, respectively, in relation to the general obligation to respect and ensure the rights established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Jacobo Roberto Kawas Cury, Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas Fernández, Jorge Jesús Kawas Fernández and Carmen Marilena Kawas Fernández; the State had violated the right to life recognized in Article 4(1) (Right to Life) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Blanca Jeannette Kawas Fernández; the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Jacobo Roberto Kawas Cury, Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas Fernández, Jorge Jesús Kawas Fernández and Carmen Marilena Kawas Fernández; the State had violated the right embodied in Article 16(1) (Freedom of Association) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Blanca Jeannette Kawas Fernández; it had not been established that the State had failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the American Convention; and the State had not violated the right embodied in Article 5(2) (Right to Humane Treatment) of the Convention to the detriment of Jacobo Roberto Kawas Cury, Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas Fernández, Jorge Jesús Kawas Fernández and Carmen Marilena Kawas Fernández.

Regarding reparations, the Court ordered, *inter alia*, that the State must: conclude the criminal proceedings, or initiate the corresponding proceedings for the facts that gave rise to the violations in this case and decide them pursuant to the law and within a reasonable time; publish once in the official gazette and in another daily newspaper with widespread national circulation, paragraphs 1 to 8 of Chapter I, 17 to 35 of Chapter V, 45 to 155 of Chapters VII, VIII and IX, and 189 to 195 of Chapter X of the judgment, without the corresponding footnotes, and the operative paragraphs; erect, within two years, a monument to the memory of Blanca Jeannette Kawas Fernández, and make signposts for the national park that bears her name; provide free of charge, immediately and for the time necessary, psychological and/or psychiatric treatment to Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas Fernández, Jorge Jesús Kawas Fernández and Carmen Marilena Kawas Fernández, if they request this; conduct, within two years, a national awareness-raising campaign on the important work of environmental defenders in Honduras and on their contributions to the defense of human rights, pay the compensation to Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas Fernández, Jorge Jesús Kawas Fernández and Carmen Marilena Kawas Fernández for pecuniary and non-pecuniary damage, and make the payment to reimburse costs and expenses.

Judge García Ramírez informed the Court of his separate opinion, which accompanies the judgment. Judge García-Sayán adhered to the opinion of Judge García Ramírez.

5. Matter of the Kankuamo Indigenous People (Colombia): *Provisional measures.* On April 3, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*: to require the State to maintain and adopt the necessary measures to continue protecting the life, integrity and personal liberty of all the members of the communities that are part of the Kankuamo Indigenous People; to reiterate to the State that it should continue informing the Inter-American Court about the investigation into the facts that gave rise to the provisional measures; to reiterate to the State that it should continue to guarantee the necessary safety conditions to ensure respect for the right to freedom of movement of the members of the Kankuamo Indigenous People, and also so that those who have been forced to displace to other regions can return to their homes if they so wish; to reiterate to the State that it should continue allowing the beneficiaries to take part in the planning and implementing of the measures of protection and, in general, keep them informed of progress in the measures ordered by the Court; to require the State to present to the Court a report on the provisional measures it has adopted in compliance with the order and on the results of the concertation meetings; to require the beneficiaries of the measures or their representatives and the Inter-American Commission to submit their observations on the State's report; to reiterate to the State that, following the presentation of the said report, it should continue reporting to the Court on the provisional measures it has adopted, and to require the beneficiaries of the measures or their representatives and the Inter-American Commission on Human Rights to submit their observations on the reports of the State.

6. Matter of Dottin et al. (previously known as the case of James et al.) (Trinidad and Tobago): *Provisional measures.* On April 3, 2009, the Court issued an order on provisional measures in this matter, in which it decided, *inter alia*, to lift the provisional measures required by the Court in its orders of June 14, July 13 and August 29, 1998, May 11, 25 and 27, and September 25, 1999, August 16 and November 24, 2000, November 26, 2001, September 3, 2002, December 2, 2003 and February 28, 2005, with regard to Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh, and substitute the examination of the obligations of the State towards these thirty-one victims by the pertinent elements within the framework of monitoring compliance with the judgment in *Hilaire, Constantine and Benjamin et al.*; to require the State to maintain the necessary measures to protect the life and personal integrity of Andrew Dottin, Kevin Dial, Arnold Ramlogan, Balkissoon Roodal, Beemal Ramnarace, Sheldon Roach and Takoor Ramcharan for an additional period of at least six months, following which the Court will assess the pertinence of lifting them; to require the State, the Inter-American Commission and the representatives of the beneficiaries to presented current information on the existence and continuation of the situation of extreme gravity and urgency and risk of irreparable damage that would justify maintaining the provisional measures in effect; and to require that the name of this matter be changed to the "Matter of Dottin et al."

7. Case of the Mayagna (Sumo) Awas Tingni Community (Nicaragua): *Monitoring compliance with judgment.* On April 3, 2009, the Court issued an order on monitoring compliance with judgment, in which it decided, *inter alia*, to conclude the monitoring of this case, because the State had complied fully with all aspects ordered in the judgment handed down by the Inter-American Court of Human Rights on August 31, 2001; to close the case file and to communicate

this order to the General Assembly of the Organization of American States at its next regular session by means of the 2009 Annual Report of the Inter-American Court of Human Rights.

8. Orders on monitoring compliance with judgment: During this session, the Court issued orders on monitoring compliance with judgment in the following cases: *Baldeón García v. Peru*, *Castillo Páez v. Peru* and the *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*.

9. Academic activity: On March 31, 2009, a seminar was held on incorporation of the case law of the Inter-American Court of Human Rights at the domestic level and current and future challenges for the inter-American system for the protection of human rights. The seminar, given by the judges of the Court, was held in the Auditorium of the Supreme Court of Justice of the Dominican Republic from 9 a.m. to 5 p.m.

10. Official activities: During the session the Court held working meetings with senior Dominican authorities, namely: the President of the Republic, the President of the Senate, the President and judges of the Supreme Court of Justice, the Attorney-General of the Republic, and the Minister for Foreign Affairs and other authorities of the Ministry of Foreign Affairs. The thirty-eighth special session of the Court was inaugurated at the Ministry of Foreign Affairs on the morning of March 30. During the inaugural act, the President of the Republic, the Minister for Foreign Affairs of the Dominican Republic, the First Substitute for the President of the Supreme Court of Justice, the President of the First Chamber of the Supreme Court of Justice, and the President of the Inter-American Court of Human Rights addressed those present.

B. Thirty-ninth special session of the Court

The Court held its thirty-ninth special session in Santiago, Chile from April 27 to 30, 2009,³³ with the following members: Cecilia Medina Quiroga (Chile), President; Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). The following judges *ad hoc* also took part in the session: Rosa María Álvarez González, appointed by the State of Mexico for the case of *González et al. ("Campo Algodonero")* and Roberto de Figueiredo Caldas, appointed by the State of Brazil for the case of *Sétimo Garibaldi*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held two public hearings on contentious cases. It also issued an interlocutory decision in a contentious case, one order on provisional measures and three orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of González Banda et al. ("Campo Algodonero") (Mexico): *Preliminary objection, and possible merits, reparations and costs.*³⁴ On April 28 and 29, 2009, during a public

33 The thirty-ninth special session was held with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency.

34 On December 15, 2007, President of the Court at the time, Judge Sergio García Ramírez, a Mexican national, ceded the Presidency to Judge Cecilia Medina Quiroga and advised the Court that he was inhibited from hearing this case.

hearing, the Court received the testimony of the witnesses and expert witnesses proposed by the Inter-American Commission on Human Rights, the representatives of the presumed victims and the United Mexican States. In addition, the Court heard the final oral arguments of the Commission, the representatives, and the State on the preliminary objection and the possible merits, reparations and costs in this case.

2. Case of Sétimo Garibaldi (Brazil): Preliminary objections, and possible merits, reparations and costs. On April 29 and 30, 2009, during a public hearing, the Court received the testimony of the witness and the expert witness proposed by the Inter-American Commission on Human Rights and the witness proposed by the Federative Republic of Brazil. In addition, the Court heard the final oral arguments of the Commission, the representatives of the presumed victims, and the State on the preliminary objections and possible merits, reparations and costs in this case.

3. Case of Cepeda Vargas (Colombia): Preliminary objections. On April 28, 2009, the Court issued an order concerning a request made by the State that, before the State submitted its answer to the application, the Court make a precise preliminary definition of the specific facts corresponding to the case of *Manuel Cepeda Vargas v. Colombia* and formally declare that, "for all procedural effects, the case submitted to its consideration will be processed based on the specific facts of the Manuel Cepeda Vargas case[, so that] any findings, assessment, evidence or reparation concerning case 11,227 [relating to the Patriotic Union], which is still being considered by the [Inter-American Commission], would not be considered, and the Commission's competence in relation to the latter case would remain intact." Additionally, the State requested that "if the Court so requires, interlocutory proceedings should be opened, in which the matter could be defined precisely in a preliminary fashion with the intervention of the parties[; and t]hat both the petitioners and the State should retain their procedural rights before the Commission as regards the processing of case 11,227: the Patriotic Union." In this regard, the Court decided to declare irreceivable the State's requests in its brief of April 7, 2009, without prejudice to whatever the State considers it appropriate to assert, in exercise of its right of defense, and at the appropriate procedural opportunities established in the Rules of Procedure, and to continue processing this case in the applicable procedural terms of the Convention, the Statute and the Rules of Procedure.

4. Matter of Fernández Ortega et al. (Mexico): Provisional measures.³⁵ On April 30, 2009, the Court issued an order concerning a request for provisional measures presented by the Inter-American Commission on Human Rights, for the United Mexican States to protect the life and personal integrity of Obtilia Eugenio Manuel and his family; of forty-one members of the Organization of the Tlapaneco Indigenous People; of Inés Fernández Ortega and her family; of twenty-nine members of the Tlachinollan Mountain Human Rights Center, and also of the next of kin of Raúl Lucas Lucía and Manuel Ponce Rosas. In the order, the Court decided, *inter alia*, to ratify all aspects of the order the President of the Court of April 9, 2009, and, consequently, to require the State to maintain any measures it was implementing, and to adopt, forthwith, any necessary complementary measures to protect the life and integrity of the following individuals, taking into consideration the seriousness and particular danger of the situation: Obtilia Eugenio Manuel, her husband Cuauhtémoc Ramírez Rodríguez, her daughters Kuaia Emilia and Sa'an Isabel and her son Cuauhtémoc, all bearing the last name Ramírez Manuel, also her sister Andrea Eugenio Manuel; Inés Fernández Ortega, her husband, Fortunato Prisciliano Sierra, and her

35 Judge Sergio García Ramírez recused himself from hearing this case.

daughters Noemí, Ana Luz and Nérida, and her son Colosio, all bearing the last name Prisciliano Fernández; the 41 members of the Organization of the Tlapaneco Indigenous People: Victoriano Eugenio Manuel, Gabino Eugenio Manuel, Juan Remigio Guzmán, Raúl Hernández Abundio, Rafael Rodríguez Dircio, Severo Eugenio Remigio, Manuel Cruz Victoriano, Orlando Manzanares Lorenzo, Natalio Ortega Cruz, Romualdo Santiago Enedina, Braulio Manzanares Lorenzo, José Eugenio Cruz, Félix Ortega Dolores, Merced Santiago Lorenzo, Arturo Cruz Ortega, Leopoldo Eugenio Manuel, Ubaldo Santiago Eugenio, Arnulfo Cruz Concepción, Silverio Remigio Guzmán, Crisóforo Manzanares Lorenzo, Taurino Fernández Santiago, Ocotlán Fernández Ortega, Mauricio Cruz Morales, Viviano García Santiago, Julio Bolanos Santiago, José Espinoza Eugenio, Ramón Ortega Cruz, Virgilio Cruz Ortega, Victoriano Ortega Cruz, Marcelino Santiago Flores, Justino García Santiago, Crispín Santiago González, Natalio Eugenio Catarino, Fausto Santiago González, Leopoldo Eugenio Rufina, Vicente Díaz Luciano, Socimo Manuel Sierra, Santiago Manuel Sierra, Ramiro Flor Cresencio, Milenio Flores de Jesús and Romualdo Eugenio Estrada; the 29 members of the Tlachinollan Mountain Organization: Abel Barrera Hernández, Alejandra González Marín, Alejandro Ramos Gallegos, Armando Campos Ochoa, Claudia Ordóñez Viquez, Dionicio Villano González, Epifania Ramírez Arias, Eulogia Flores Vázquez, Fidela Hernández Vargas, Gabino Santiago Jiménez, Isauro Romero Solano, Isidoro Vicario Aguilar, Jane Eva Jones, Juan Castro Castro, Laura Lizette Aragón Castro, Margarita Nemecio Nemesio, Mario Patrón Sánchez, Matilde Pérez Romero, Neil Arias Vitinio, Odilia Alatorre Villavicencio, Olivia Arce Bautista, Patricia Bordier Morteo, Paulino Rodríguez Reyes, Prometeo Rodríguez Lucero, Roberto Gamboa Vázquez, Rogelio Téliz García, Rommel Cain Chacan Pale, Teresa de la Cruz de la Cruz and Vidulfo Rosales Sierra; and the next of kin of Raúl Lucas Castro and Manuel Ponce Rosas: Guadalupe Castro Morales, Samuel Lucas Castro, Gaudencia Jesús García, María Inés Lucas Castro, Carmen Lucas Lucía, Yareli Alejandro Lucas, Julio Alejandro Lucas, Marco Antonio Alejandro Lucas, Fidel Alejandro Lucas, Margarita Martín de las Nieves, Efrén Ponce Martín, Fermín Ponce Martín, Felipe Ponce García, María Aurora Venancio, Rufina Ponce, Ernesto Porfirio, Santiago Ponce Rosas, Alicia Ponce Lola, Victoriano Ponce Lola, Toribio Santos Flores, Jorge Luis García Catarin, Aurelio García de los Santos, Cándida García Rufina, Santiago Ponce Lola and Maximino García Catarino. Furthermore, the Court decided to require the State to take all pertinent steps to ensure that the measures of protection decided in the order were planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the said measures would be provided diligently and effectively and, in general, to keep them informed about progress in their implementation, and to continue informing the Inter-American Court about the provisional measures adopted in compliance with the decision; and also to ask the representatives of the beneficiaries of the measures and the Inter-American Commission to submit their observations on the State's reports.

5. Orders on monitoring compliance with judgment. During this session, the Court issued orders examining compliance with the judgments handed down in the following cases: Miguel Castro Castro Prison v. Peru, Cantoral Huamaní and García Santa Cruz v. Peru, and Chaparro Álvarez and Lapo Iñiguez v. Ecuador.

6. Academic activity: On April 30, 2009, a seminar was held on current and future challenges for the inter-American system for the protection of human rights, comprising two thematic panel sessions; one on personal liberty and procedural guarantees, and the other on reparations in human rights cases. Cecilia Medina Quiroga, President of the Court, and José Zalaquett Daré, who are Co-Directors of the Human Rights Center of the Universidad de Chile acted as moderators during the seminar, and the speakers were: Sergio García Ramírez and Manuel E. Ventura Robles, judges of the Court; Stella Maris Martínez, Defender General of the Nation of Argentina; Marisol

Peña Torres, Minister of the Constitutional Court and Director of the Public Law Department of the Law School of the Pontificia Universidad Católica de Chile; Enrique Gil Botero, Counselor of State of Colombia; and Claudio Nash Rojas, Academic Coordinator of the Human Rights Center of the Universidad de Chile.

7. Official activities: During the session the Court held working meetings with senior Chilean authorities, namely: the President of the Republic, the Supreme Court of Justice in plenary, the Constitutional Court in plenary, the President of the Chamber of Deputies, the Minister for Foreign Affairs, the National Prosecutor from the Public Prosecutor's Office, the National Defender from the Office of Criminal Public Defenders, the Council for the Defense of the State, and the Center for Justice Studies of the Americas. The inaugural act for the thirty-fourth special session of the Court was held at the Ministry of Foreign Affairs on the evening of April 27, and those present were addressed by the Vice Minister for Foreign Affairs of Chile and the President of the Inter-American Court of Human Rights.

C. Fortieth special session of the Court

The Court held its fortieth special session in La Paz, Bolivia, from July 13 to 15, 2009,³⁶ with the following members: Diego García-Sayán (Peru), Vice President; Sergio García Ramírez (Mexico); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). Judge *ad hoc* Ramón Cadena Rámila, appointed by the State of Guatemala for the case of the *Dos Erres Massacre* also took part in the session. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held a public hearing on a contentious case and a public hearing on monitoring compliance with judgment. It also issued an order concerning a request for provisional measures. The matters considered by the Court during the session are described below:

1. Case of the Dos Erres Massacre (Guatemala): *Preliminary objection, and possible merits, reparations and costs.* On July 14, 2009, at a public hearing, the Court received the testimony of the presumed victims, a witness and the expert witnesses proposed por the Inter-American Commission on Human Rights and the representatives of the presumed victims. In addition, the Court heard the final oral arguments of the Commission, the representatives, and the State on the preliminary objection and the possible merits, reparations and costs in this case.

2. Case of Sawhoyamaxa Indigenous Community (Paraguay): *Monitoring compliance with judgment.* On July 15, 2009, the Court held a public hearing in order to obtain information from the State on compliance with the judgment on merits, reparations and costs handed down in this case and hear the corresponding observations of the Inter-American Commission and the representatives.

3. Matter of Gomes Lund et al. (Guerrilha do Araguaia) (Brazil): *Provisional measures.* On July 15, 2009, the Court issued an order on provisional measures in this matter, in which it

³⁶ The fortieth special session was held with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency.

decided, *inter alia*, to reject the request for provisional measures presented by the representatives of the presumed victims in the case of Gomes Lund *et al.* (*Guerrilha do Araguaia*).

4. Academic activities: On July 13, 2009, a seminar was offered by the Court's lawyers on the Inter-American system for the protection of human rights and the case law of the Inter-American Court. It comprised two panel sessions; Panel 1 concerned the organs of the inter-America system for the protection of human rights (the Commission and the Court) and their functioning and the speakers were Auxiliadora Solano, Inter-American Court lawyer, and Matías Hernández, American University researcher; and Panel 2, the case law developed by the Inter-American Court of Human Rights, which was sub-divided into the following topics: "Right to Life," presented by Claudia Josi, Inter-American Court lawyer; "Indigenous Peoples' Rights," presented by Oswaldo Ruiz, Inter-American Court lawyer; and "Reparations," presented by Jorge Calderón, Inter-American Court lawyer.

In addition, on July 15, 2009, a seminar was held on current and future challenges for the inter-American system for the protection of human rights, given by judges of the Inter-American Court. This seminar comprised two panels: Panel 1 "Interaction between National and International Law: a Comparison of Perspectives and Cases," presented by Diego García-Sayán, Vice President of the Inter-American Court, and Leonardo A. Franco, Judge of the Inter-American Court; and Panel 2 "Challenges for the inter-American System and Considerations on Discrimination," presented by Sergio García Ramírez, Judge of the Inter-American Court, and Rhadys Abreu Blondet, Judge of the Inter-American Court.

5. Official activities: During this session, the Court held working meetings with senior Bolivian authorities, namely: the President of the Plurinational State of Bolivia; the Ministers of the Presidency, Foreign Affairs, Justice, Economy and Public Finances, and the Legal Defense of the State; the President of the Supreme Court of Justice; the Vice Minister and the Director General of the Ministry of Foreign Affairs and Worship, and the Prosecutor General of the Republic. The fortieth special session was inaugurated in the Government Palace on July 13, and those present were addressed by the Vice Minister of Foreign Affairs and Worship, and the Vice President of the Court. The same day, the members of Inter-American Court were declared illustrious guests of the city of La Paz, at the Office of the Mayor of La Paz.

III. SUBMISSION OF NEW CONTENTIOUS CASES

Over the course of 2009, twelve new contentious cases were submitted to the consideration of the Court:

1. Case of Gomes Lund v. Brazil

On March 26, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights, lodged an application against the State of Brazil, concerning the case of Gomes Lund. The application relates to the alleged arbitrary detention, torture and forced disappearance of 70 persons, members of the Communist Party of Brazil and peasants from the region, as a result of operations conducted by the Brazilian Army between 1972 and 1975 to eliminate the *Guerrilha do Araguaia* [the Araguaia guerrilla fighters], during

the military dictatorship in Brazil. Furthermore, the Commission stated that it submitted the case to the consideration of the Court because, under the Amnesty Law, the State had not conducted a criminal investigation in order to sanction those responsible for the forced disappearance of 70 presumed victims and the extrajudicial execution of María Lucia Petit da Silva; because the civil judicial remedies filed to obtain information on the facts had not been effective; because the legislative and administrative measures adopted by the State had unduly restricted the right of access to information of the next of kin, and because the disappearance of the presumed victims, the execution of María Lucia Petit da Silva, the impunity of those responsible and the absence of access to justice, to the truth and to information had negatively affected the personal integrity of the next of kin.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the Convention.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

2. Case of Chitay Nech *et al.* v. Guatemala

On April 17, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights, lodged an application against the State of Guatemala, concerning the case of Chitay Nech *et al.* The application relates to the alleged forced disappearance of the Maya Kaqchikel indigenous political leader Florencio Chitay Nech, that occurred as of April 1, 1981, in Guatemala City, and the alleged subsequent lack of due diligence in the investigation into the facts, as well as the alleged denial of justice to the detriment of the next of kin of the presumed victim.

In the application, the Commission asked the Court to declare the State responsible for the violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) and 23 (Right to Participate in Government) of the American Convention on Human Rights, in relation to the obligation contained in Article 1(1) (Obligation to Respect Rights) of this instrument, as well as in relation to Articles I and II of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Florencio Chitay Nech; Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligations contained in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Florencio Chitay Nech and his next of kin, namely: his sons Encarnación, Pedro, Eliseo and Estermerio, and also his daughter María Rosaura, all bearing the last names Chitay Rodríguez. In addition, the Commission alleged that the State is responsible for the violation of Articles 5 (Right to Humane Treatment) and 17 (Rights of the Family) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of Florencio Chitay Nech, namely: his sons Encarnación, Pedro, Eliseo and Estermerio, and also his daughter María Rosaura, all bearing the last name Chitay Rodríguez, and of Article 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Estermerio Chitay Rodríguez, who was a child at the time.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

3. Case of Fernández Ortega *et al.* v. Mexico

On May 7, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Mexico concerning the case of Inés Fernández Ortega. The application relates to the alleged rape and torture of the indigenous woman Me'phaa Inés Fernández Ortega.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 11 (Right to Privacy [Honor and Dignity]) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Inés Fernández Ortega; for the violation of Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) of this treaty, to the detriment of the following next of kin of Inés Fernández Ortega: Fortunato Prisciliano Sierra (husband), Noemí, Ana Luz, Colosio, Nelida and Neptalí Prisciliano Fernández (children), María Lída Ortega (mother), Lorenzo and Ocotlan Fernández Ortega (brothers); and the violation of Article 7 of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women to the detriment of Inés Fernández Ortega. Furthermore, the Commission asked the Court to declare that the State failed to comply with its obligations under Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

4. Case of Ibsen Cárdenas *et al.* v. Bolivia

On May 12, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Bolivia concerning the case of Rainer Ibsen Cárdenas and José Luis Ibsen Peña. The application relates to the alleged forced disappearance of Rainer Ibsen Cárdenas and José Luis Ibsen Peña as of October 1971 and February 1973 respectively, in the context of the military dictatorship headed by Hugo Banzer Suárez, followed by the presumed impunity of these facts, as well as the alleged absence of reparation to their next of kin for the damage caused and the uncertainty about the whereabouts of one of the victims.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation contained in Article 1(1) (Obligation to Respect Rights) of this instrument, and in relation to Articles I and XI of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Rainer Ibsen Cárdenas and José Luis Ibsen Peña; and also Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of the presumed

victims, namely: Tito Ibsen Castro, Rebeca Ibsen Castro, Raquel Ibsen Castro and Martha Castro Mendoza. In addition, the Commission asked the Court to declare that the State had failed to comply with the obligation contained in Articles III and IV of the Inter-American Convention on Forced Disappearance of Persons by not defining forced disappearance as a crime until 2004.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

5. Case of Cabrera García and Montiel Flores v. Mexico

On June 24, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Mexico concerning the case of Teodoro Cabrera García and Rodolfo Montiel Flores. The application indicates that Teodoro Cabrera García and Rodolfo Montiel Flores were presumably subjected to cruel, inhuman and degrading treatment while they were detained and in the custody of members of the Mexican Army; they were not brought promptly before a judge or other officer authorized by law to exercise judicial power so that the legality of the detention could be controlled, and various irregularities were committed in the course of the criminal proceedings filed against them. In addition, the application refers to the supposed lack of due diligence in the investigation and sanction of those responsible for the facts and, in particular, the absence of an adequate investigation into the allegations of torture, and the use of the military jurisdiction to investigate and prosecute human rights violations.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention; for failing to comply with the general obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and for failing to comply with its obligations under Articles 1, 6, 8 and 10 of the Inter-American Convention to Prevent and Punish Torture to the detriment of Teodoro Cabrera García and Rodolfo Montiel Flores.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

6. Case of the Xákmok Kásek Indigenous Community of the Enxet-Language People and its Members v. Paraguay

On July 3, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Paraguay concerning the case of the Xákmok Kásek Indigenous Community. The application indicates that the State supposedly failed to guarantee the right to ancestral property of the Xákmok Kásek Indigenous Community of the Enxet-Language People and its members, because the processing of the Community's application for return of its territory has been in progress since 1990 and, to this date, it has not been resolved satisfactorily. The alleged result of this circumstance is not only the impossibility for the Community to accede to the ownership and possession of its territory, but also, owing to its characteristics, has maintained it in a vulnerable situation as regards food, health care and hygiene that constantly threatens the survival of the members of the Community and its integrity.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 21 (Right to Property), 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), in connection with Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects), to the detriment of the Xákmok Kásek Indigenous Community of the Enxet-Language People and its members, and also the violation of Article 3 (Right to Juridical Personality) and 19 (Rights of the Child), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention, to the detriment of certain member of the Xákmok Kásek Indigenous Community.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

7. Case of Rosendo Cantú *et al.* v. Mexico

On August 2, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Mexico, concerning the case of Rosendo Cantú *et al.* The application relates to the alleged rape and torture of the indigenous woman, Me'phaa Valentina Rosendo Cantú on February 16, 2002, in the State of Guerrero, Mexico, as well as the alleged lack of due diligence in the investigation and the failure to sanction those responsible for the facts; the alleged consequences of the facts of the case on the presumed victim's daughter; the supposed absence of adequate reparation in favor of the presumed victim and her next of kin; the use of the military jurisdiction to investigate and prosecute the human rights violations, and the supposed difficulties faced by indigenous people, in particular indigenous women, to obtain access to justice and to health care services in Mexico.

In the application, the Commission asked that the Court declare the State responsible for the violation of the rights established in Articles 5(1) (Right to Humane Treatment), 8(1) (Right to a Fair Trial), 11 (Right to Privacy [Honor and Dignity]), 19 (Rights of the Child) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as well as Article 7 of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, all the foregoing to the detriment of Valentina Rosendo Cantú. Furthermore, it asked the Court to declare the international responsibility of the State for the violation of the right established in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Yenys Bernardino Rosendo, daughter of Valentina Rosendo Cantú.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

8. Case of Lysias Fleury and his family v. Haiti

On August 5, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Haiti concerning the case of Lysias Fleury. The application relates to the supposed unlawful detention and perpetration of cruel, inhuman and degrading treatment against Lysias Fleury that occurred on

June 24, 2002, in Port-au-Prince; the alleged subsequent lack of due diligence in the investigation into the facts and the denial of justice to the detriment of Mr. Fleury and his next of kin, as well as the alleged violation of the personal integrity of his next of kin.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 5(1) and 5(2) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, based on the alleged ill-treatment of Lysias Fleury by State agents and for the effect on his physical, moral and mental integrity; and also for the violation of Articles 7(2), 7(3), 7(4) and 7(5) (Right to Personal Liberty) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, owing to the alleged unlawful arrest and detention of Mr. Fleury, in the absence of charges against him. Furthermore, the Commission asked the Court to declare the violation, to the detriment of Mr. Fleury's immediate family, of Article 5 (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, owing to the presumed violations of their personal integrity. In addition, the Commission asked the Court to declare the violation of Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Mr. Fleury and his next of kin, because it failed to open a prompt, effective, impartial and independent investigation into the violations of the human rights of Mr. Fleury and to prosecute and sanction those responsible.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

9. Case of Jesús Tranquilino Vélez Loor v. Panama

On October 8, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Panama concerning the case of Jesús Tranquilino Vélez Loor. The application relates to the alleged detention and subsequent prosecution of Jesús Tranquilino Vélez Loor, an Ecuadorian national, for offenses related to his migratory status, without due guarantees and without the possibility of being heard and exercising his right to defense; the alleged failure to investigate the complaints of torture filed before the Panamanian authorities by Mr. Vélez Loor, as well as the supposed inhuman detention conditions to which he was subjected in various Panamanian prisons from the time he was deprived of liberty on November 11, 2002, until he was deported to the Republic of Ecuador on September 10, 2003.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, as well as of Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, all to the detriment of Jesús Tranquilino Vélez Loor.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

10. Case of Mejía Idrovo v. Ecuador

On November 19, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Ecuador concerning the case of Mejía Idrovo. The application relates to the State's supposed failure to comply with a judgment handed down by the Constitutional Court declaring the unconstitutionality of two executive decrees determining the discharge from the Army of José Alfredo Mejía Idrovo, and ordered reparation for the damage caused.

In the application, the Commission asked that the Court declare the State responsible for the presumed violation of the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, in relation to the obligations established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of José Alfredo Mejía Idrovo.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

11. Case of Chocrón Chocrón v. Venezuela

On November 25, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the State of Venezuela concerning the case of Mercedes Chocrón Chocrón. The application relates to the presumed arbitrary dismissal of the victim from the post of criminal judge of first instance in the Judicial Circuit of the Metropolitan Area of Caracas, in the absence of even the minimum guarantees of due process, without adequate grounds, without the possibility of being heard and exercising her right to defense, and without having an effective judicial remedy to combat these violations, all as a result of the absence of guarantees under the process of transition of the Judiciary.

In the application, the Commission asked that the Court declare the State responsible for the violation of Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention on Human Rights.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

12. Case of Leopoldo López Mendoza v. Venezuela

On December 14, 2009, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights lodged an application against the Bolivarian Republic of Venezuela concerning the case of López Mendoza. The application relates to the State's alleged international responsibility for having disqualified Mr. López Mendoza from exercising public office by means of an administrative procedure in violation of the provisions of the Convention, and for having prohibited him from taking part in the 2008 regional elections, as well as failing to grant him the pertinent judicial guarantees and judicial protection, or to make adequate reparation to him.

In the application, the Commission asked that the Court establish “the international responsibility of the Venezuelan State for failing to comply with its international obligations by violating Articles 23, 8(1) and 25 of the American Convention,” in relation to “Articles 1(1) and 2 thereof,” to the detriment of Mr. López Mendoza.

Based on the above, the Commission asked the Court to order the State to adopt specific measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

IV. NEW PROVISIONAL MEASURES

During 2009, ten new requests for provisional measures were submitted to the Court:

1. Provisional measures in the case of *Fernández Ortega et al.* (Mexico)

On April 8, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights, 26 of the Rules of Procedure of the Court and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures to protect the life and personal integrity of Obtilia Eugenio Manuel and her family; forty-one members of the *Organización del Pueblo Indígena Tlapaneco* [Organization of the Tlapanec Indigenous People]; Inés Fernández Ortega and her family; twenty-nine members of the *Organización de la Montaña Tlanichollan* [Organization of the Tlanichollan Mountain], and also the next of kin of Raúl Lucas Lucía and Manuel Ponce Rosas. The foregoing because Obtilia Eugenio had supposedly been subjected to threats, surveillance and harassment as a result of her work defending indigenous rights in the State of Guerrero, Mexico.

On April 9, 2009, the President of the Court issued an order concerning this request for provisional measures, in which she decided, *inter alia*, to order the State to adopt the necessary provisional measures to protect the life and personal integrity of the persons mentioned in the previous paragraph.

On April 30, 2009, the Court issued an order for the United Mexican State to protect the life and personal integrity of the persons mentioned above. In this order, the Court decided, *inter alia*, to ratify all aspects of the order of the President of the Court of April 9, 2009, and, consequently, to require the State to maintain any measures it was implementing, and also to adopt, immediately, any complementary measures necessary to protect the life and integrity of the beneficiaries, bearing in mind the seriousness of the situation and the particular circumstances of risk. Furthermore, the Court decided to require the State: to take all pertinent steps to ensure that the measures of protection decided in the order were planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the said measures were provided diligently and effectively and, in general, to keep them informed of any progress in the implementation of the measures; to continue providing information to the Inter-American Court on the provisional measures adopted pursuant to the decision, and to request the representatives of the beneficiaries of the measures and the Inter-American Commission to submit their observations on the State's reports.

2. Request for provisional measures in the case of De La Cruz Flores (Peru)

On April 15, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights and 26 of the Rules of Procedure of the Court, the representative of the victim in the case of De La Cruz Flores submitted to the Court a request for provisional measures so that the State would abstain from depriving Dr. María Teresa De La Cruz Flores of her liberty for considerations contrary to the judgment in this case. The foregoing because, as part of the new proceedings filed against Dr. De La Cruz Flores following the hearing by the Second Transitory Criminal Chamber of the Supreme Court of Justice of the Republic on the appeal for declaration of nullity, supposedly, as a result of a vote, the court declared that “nullity was not admissible [in the] sentence against De La Cruz; nullity was admissible as regards the punishment of 8 to 10 years’ imprisonment.” The provisional measures were requested in view of the imminent risk that Dr. María Teresa De La Cruz would be detained, given the adverse nature of the judgment of the Supreme Court of Justice and the possible increase of the punishment meted out against her.

At the date of this report, the Court is still gathering additional information from the parties; consequently, the request is pending the Court’s decision.

3. Provisional measures in the case of Pérez Torres *et al.* (“Campo Algodonero”) (Mexico)

On April 23, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the representatives of the presumed victims in the case of Campo Algodonero *et al.*, submitted to the Court a request for provisional measures to protect the life and personal integrity of the witness Rosa Isela Pérez Torres. The foregoing in order to ensure the security and liberty of Mrs. Pérez Torres because of her justified and imminent fear of the local and federal public security agents, owing to her testimony before the Inter-American Court.

On April 24, 2009, the President of the Court issued an order concerning this request for provisional measures, in which she decided, *inter alia*, to order the State to adopt the necessary provisional measures to protect the life and personal integrity of Rosa Isela Pérez Torres and her immediate next of kin.

On July 6, 2009, the Court issued an order on provisional measures, in which it decided, *inter alia*, to ratify the order of the President of the Inter-American Court of Human Rights of April 24, 2009; to require the State to maintain any measures it had adopted and to adopt, forthwith, all necessary measures to protect the life and integrity of Rosa Isela Pérez Torres and her immediate next of kin; to require the State to send the Court the report indicated in considering paragraphs 24 and 25 of the order; to require the representatives of the beneficiaries and the Inter-American Commission to submit any observations they deemed pertinent on the State’s report mentioned above, and to reiterate to the State that it should continue to allow the beneficiaries to take part in the planning and implementation of the measures of protection and, in general, keep them informed of any progress in the measures.

4. Provisional measures in the case of Gomes Lund (the Araguaia Guerrilla Movement) (Brazil)

On June 26, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the Center for Justice and International Law, the

Grupo Tortura Nunca Más [No More Torture Group] and the Committee of Next of Kin of those who Died or Disappeared for Political Reasons, submitted a request for provisional measures to the Court in order to suspend the execution of Resolution 567/MD of April 29, 2009, issued by the Ministry of Defense, as well as the activities of the working group referred to in this resolution. The request for provisional measures was based on the fear that, because the Army controlled the actions of the working group responsible for locating and identifying the mortal remains, it would hide or destroy essential evidence for the investigation and criminal punishment of those presumably responsible for the violations alleged in the litigation before the Court; the impossibility of the mortal remains of their loved ones being returned to the families; the fear that the procedural guarantees and access to justice that should be present in any investigation of a criminal nature would be violated, and the impossibility of complying fully and effectively with any reparations that the Court may order when it delivers judgment in the case before it.

On July 15, 2009, the Court issued an order on provisional measures, in which it decided, *inter alia*, to reject the request for provisional measures submitted by the representatives of the presumed victims in the case of Gomes Lund *et al.*

5. Provisional measures in the matter of A.J. *et al.* (Haiti)

On August 14, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights, 26 of the Rules of Procedure of the Court and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures to protect the life and personal integrity of A. J., his mother, J. L. and Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael, and André Junior Laurore, the last four individuals are members of the organization, *Action Citoyenne pour le Respect des Droits Humains*. The foregoing, because the persons mentioned have supposedly been subjected to diverse acts of harassment and persecution by police officials after they denounced the sexual abuse suffered by A.J., presumably by one of the said officials.

On August 24, 2009, the President of the Court issued an order concerning this request for provisional measures, in which she decided, *inter alia*, to order the State to adopt the necessary provisional measures to protect the life and personal integrity of A. J., J. L., Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael and André Junior Laurore, bearing in mind the seriousness of the situation and the particular circumstances of risk.

On September 21, 2009, the Court issued an order on provisional measures in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of Human Rights of August 24, 2009, and, consequently, to require the State to adopt, forthwith, all necessary measures to protect the life and integrity of A. J., J. L., Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael and André Junior Laurore, bearing in mind the seriousness of the situation and the particular circumstances or risk; to require the State to adopt, forthwith, all necessary measures to protect the life and integrity of the next of kin of the beneficiaries Sterlin Joudain, Michelet Laguerre, Pierre Luc Sael and André Junior Laurore; and to require the State to take all pertinent measures to ensure that the measures of protection ordered are planned and implemented with the participation of the beneficiaries or their representatives, so that the said measures are provided diligently and effectively and, in general, to keep them informed of any progress in the implementation of the measures.

6. Provisional measures in the matter of Guerrero Larez (Venezuela)

On November 13, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights, 26 of the Rules of Procedure of the Court and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures to protect the life and personal integrity of Francisco Dionel Guerrero Larez. The foregoing, because Mr. Guerrero Larez was deprived of liberty, serving a sentence in the Venezuelan General Penitentiary, and, since September 7, 2009, his next of kin have been unable to communicate with him. Since that date, Mr. Guerrero Larez's father and wife have tried unsuccessfully to contact him, and the prison authorities have failed to provide them with any information on his situation and whereabouts.

On November 17, 2009, the Court issued an order on provisional measures, in which it decided, *inter alia*, to require the State to adopt, forthwith, all necessary measures to determine the situation and whereabouts of Francisco Dionel Guerrero Larez and to protect his life and personal integrity.

7. Provisional measures in the case of the La Rochela Massacre (Colombia)

On October 24, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the representatives of the victims in the case of the La Rochela Massacre submitted to the Court a request for provisional measures to protect the life and personal integrity of Esperanza Uribe Mantilla, Luz Nelly Carvajal and Paola Martínez Ortiz and their families, who are among the victims in this case. The foregoing, because of the threats and harassment to which these people have been subjected.

On November 19, 2009, the Court issued an order on provisional measures, in which it decided, *inter alia*, to require the State to adopt, forthwith, all necessary measures to protect the life and personal integrity of Paola Martínez Ortiz, Luz Nelly Carvajal Londoño and Esperanza Uribe Mantilla and their families.

8. Request for provisional measures in the matter of the *Comisión Colombiana de Juristas* (Colombia)

On November 9, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights, 26 of the Rules of Procedure of the Court and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures to protect the life and personal integrity of the members of the non-governmental organization, the *Comisión Colombiana de Juristas* [the Colombian Jurists' Commission]. The foregoing because the organization had supposedly been the subject of public accusations, threats and harassment.

At the date of this report, the Court is still gathering additional information from the parties, so that the request is pending the Court's decision.

9. Provisional measures in the matter of Natera Balboa (Venezuela)

On November 28, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights, 26 of the Rules of Procedure of the Court and 74 of the Rules of Procedure of the Commission,

the Inter-American Commission on Human Rights submitted to the Court a request for provisional measures to protect the life and personal integrity of Eduardo José Natera Balboa. The foregoing, because Mr. Natera Balboa was deprived of liberty in the Oriental Regional Penitentiary Center "El Dorado," State of Bolívar, and his whereabouts are unknown since November 8, 2009, the date on which several members of the National Guard were alleged to have forced him to enter a black car. Since that date Mr. Natera Balboa's mother and next of kin have tried unsuccessfully to contact him, while neither the National Guard nor other officials have provided exact information on what happened or on his situation and whereabouts.

On December 1, 2009, the President of the Court issued an order on urgent measures, in which she decided to require the State to adopt, forthwith, all necessary measures to determine the situation and whereabouts of Eduardo José Natera Balboa and to protect his life and personal integrity.

10. Request for provisional measures in the case of Fernández Ortega, in favor of Rosendo Cantú *et al.* (México)

On December 18, 2009, pursuant to Articles 63(2) of the American Convention on Human Rights and 26 of the Rules of Procedure of the Court, the representatives of the victims in the case of Fernández Ortega *et al.* submitted to the Court a request for provisional measures to protect the life and personal integrity of Valentina Rosendo Cantú and her daughter Yenis Bernardino Rosendo. The foregoing, because of alleged serious facts that adversely affect the life, safety and tranquility of the said persons, owing to the reactivation of Mrs. Rosendo's case before the Court.

On December 23, 2009, the President of the Court issued an order on urgent measures, in which she decided to reject the request to expand the provisional measures and to require the State to inform the Court about the situation of extreme gravity and urgency of Valentina Rosendo Cantú and her daughter Yenis Bernardino Rosendo in the context of the case of Rosendo Cantú *v.* México.

V. STATUS OF MATTERS BEING PROCESSED BY THE COURT

1. Contentious cases

At the end of 2009, 14 cases were pending the Court's judgment; of these, nine are at the initial processing stage, four at the stage of preliminary objections and possible merits, reparations and costs and one at the stage of reparations and costs. In addition, 104 cases are at the stage of monitoring compliance with judgment, which means that a total of 118 cases are being processed by the Court.

1. a. Contentious cases pending judgment:

	Name	Date submitted	Respondent State	Current stage
1.	Case of Salvador Chiriboga	12/12/06	Ecuador	Reparations and costs
2.	Case of Manuel Cepeda Vargas	14/11/08	Colombia	Preliminary objections and possible merits, reparations and costs
3.	Case of Gomes Lund <i>et al.</i>	26/03/09	Brazil	Preliminary objections and possible merits, reparations and costs
4.	Case of Chitay Nech <i>et al.</i>	17/04/09	Guatemala	Preliminary objections and possible merits, reparations and costs
5.	Case of Fernández Ortega <i>et al.</i>	07/05/09	México	Preliminary objections and possible merits, reparations and costs
6.	Case of Ibsen Cárdenas <i>et al.</i>	12/05/09	Bolivia	Initial processing
7.	Case of Cabrera García and Montiel Flores	24/06/09	México	Initial processing
8.	Case of the Xákmok Kasek Indigenous Community of the Enxet-Language People and its Members	03/07/09	Paraguay	Initial processing
9.	Case of Rosendo Cantú <i>et al.</i>	02/08/09	México	Initial processing
10.	Case of Lysias Fleury and family	05/08/09	Haiti	Initial processing
11.	Case of Jesús Tranquilino Vélez Loor	08/10/09	Panamá	Initial processing
12.	Case of Mejía Idrovo	19/11/09	Ecuador	Initial processing
13.	Case of Chocrón Chocrón	25/11/09	Venezuela	Initial processing
14.	Case of Leopoldo López Mendoza	14/12/09	Venezuela	Initial processing

1. b. Contentious cases at the stage of monitoring compliance with judgment

	Name	Respon- dent State	Current Stage
1.	Case of the 19 Tradesmen	Colombia	Monitoring compliance with judgment
2.	Case of Acevedo Buendía <i>et al.</i> ("Dismissed and Retired Employees of the Comptroller's Office")	Peru	Monitoring compliance with judgment
3.	Case of Acevedo Jaramillo <i>et al.</i>	Peru	Monitoring compliance with judgment
4.	Case of Albán Cornejo <i>et al.</i>	Ecuador	Monitoring compliance with judgment
5.	Case of Almonacid Arellano	Chile	Monitoring compliance with judgment
6.	Case of Anzualdo Castro	Peru	Monitoring compliance with judgment
7.	Case of Apitz Barbera <i>et al.</i>	Venezuela	Monitoring compliance with judgment
8.	Case of Baena Ricardo <i>et al.</i>	Panama	Monitoring compliance with judgment
9.	Case of Baldeón García	Peru	Monitoring compliance with judgment
10.	Case of Bámaca Velásquez	Guatemala	Monitoring compliance with judgment
11.	Case of Barreto Leiva	Venezuela	Monitoring compliance with judgment
12.	Case of Barrios Altos	Peru	Monitoring compliance with judgment
13.	Case of Bayarri	Argentina	Monitoring compliance with judgment
14.	Case of Benavides Cevallos	Ecuador	Monitoring compliance with judgment
15.	Case of Blake	Guatemala	Monitoring compliance with judgment
16.	Case of Blanco Romero <i>et al.</i>	Venezuela	Monitoring compliance with judgment
17.	Case of Boyce <i>et al.</i>	Barbados	Monitoring compliance with judgment
18.	Case of Bueno Alves	Argentina	Monitoring compliance with judgment
19.	Case of Bulacio	Argentina	Monitoring compliance with judgment
20.	Case of Caballero Delgado and Santana	Colombia	Monitoring compliance with judgment
21.	Case of Caesar	Trinidad and Tobago	Monitoring compliance with judgment
22.	Case of Campo Algodonero	Mexico	Monitoring compliance with judgment
23.	Case of Cantoral Benavides	Peru	Monitoring compliance with judgment

24.	Case of Cantoral Huamaní and García Santa Cruz	Peru	Monitoring compliance with judgment
25.	Case of Cantos	Argentina	Monitoring compliance with judgment
26.	Case of Carpio Nicolle <i>et al.</i>	Guatemala	Monitoring compliance with judgment
27.	Case of Castañeda Gutman	Mexico	Monitoring compliance with judgment
28.	Case of Castillo Páez	Peru	Monitoring compliance with judgment
29.	Case of Castillo Petrucci <i>et al.</i>	Peru	Monitoring compliance with judgment
30.	Case of Cesti Hurtado	Peru	Monitoring compliance with judgment
31.	Case of “The Five Pensioners”	Peru	Monitoring compliance with judgment
32.	Case of the Sawhoyamaxa Indigenous Community	Paraguay	Monitoring compliance with judgment
33.	Case of the Yakye Axa Indigenous Community	Paraguay	Monitoring compliance with judgment
34.	Case of the Moiwana Community	Suriname	Monitoring compliance with judgment
35.	Case of Chaparro Álvarez and Lapo Íñiguez	Ecuador	Monitoring compliance with judgment
36.	Case of DaCosta Cadogan	Barbados	Monitoring compliance with judgment
37.	Case of De La Cruz Flores	Peru	Monitoring compliance with judgment
38.	Case of the Dos Erres Massacre	Guatemala	Monitoring compliance with judgment
39.	Case of the Mapiripán Massacre	Colombia	Monitoring compliance with judgment
40.	Case of the Pueblo Bello Massacre	Colombia	Monitoring compliance with judgment
41.	Case of the Serrano Cruz Sisters	El Salvador	Monitoring compliance with judgment
42.	Case of the Ituango Massacres	Colombia	Monitoring compliance with judgment
43.	Case of the “La Rochela Massacre”	Colombia	Monitoring compliance with judgment
44.	Case of the Yean and Bosico Girls	Dominican Republic	Monitoring compliance with judgment
45.	Case of the “Street Children” (Villagrán Morales <i>et al.</i>)	Guatemala	Monitoring compliance with judgment
46.	Case of El Caracazo	Venezuela	Monitoring compliance with judgment
47.	Case of the Miguel Castro Castro Prison	Peru	Monitoring compliance with judgment
48.	Case of the Constitutional Court	Peru	Monitoring compliance with judgment
49.	Case of Durand and Ugarte	Peru	Monitoring compliance with judgment

50.	Case of El Amparo	Venezuela	Monitoring compliance with judgment
51.	Case of Escué Zapata	Colombia	Monitoring compliance with judgment
52.	Case of Escher <i>et al.</i>	Brazil	Monitoring compliance with judgment
53.	Case of Fermín Ramírez	Guatemala	Monitoring compliance with judgment
54.	Case of García Asto and Ramírez Rojas	Peru	Monitoring compliance with judgment
55.	Case of García Prieto <i>et al.</i>	El Salvador	Monitoring compliance with judgment
56.	Case of Garibaldi	Brazil	Monitoring compliance with judgment
57.	Case of Garrido and Baigorria	Argentina	Monitoring compliance with judgment
58.	Case of Goiburú <i>et al.</i>	Paraguay	Monitoring compliance with judgment
59.	Case of Gómez Palomino	Peru	Monitoring compliance with judgment
60.	Case of Gutiérrez Soler	Colombia	Monitoring compliance with judgment
61.	Case of Heliodoro Portugal	Panama	Monitoring compliance with judgment
62.	Case of the Gómez Paquiyaui Brothers	Peru	Monitoring compliance with judgment
63.	Case of Herrera Ulloa	Costa Rica	Monitoring compliance with judgment
64.	Case of Hilaire, Constantine, Benjamin <i>et al.</i>	Trinidad and Tobago	Monitoring compliance with judgment
65.	Case of Huilca Tecse	Peru	Monitoring compliance with judgment
66.	Case of the "Children's Rehabilitation Institute"	Paraguay	Monitoring compliance with judgment
67.	Case of Ivcher Bronstein	Peru	Monitoring compliance with judgment
68.	Case of Juan H. Sánchez	Honduras	Monitoring compliance with judgment
69.	Case of Kimel	Argentina	Monitoring compliance with judgment
70.	Case of Kawas Fernández	Honduras	Monitoring compliance with judgment
71.	Case of La Cantuta	Peru	Monitoring compliance with judgment
72.	Case of Las Palmeras	Colombia	Monitoring compliance with judgment
73.	Case of Loayza Tamayo	Peru	Monitoring compliance with judgment
74.	Case of López Álvarez	Honduras	Monitoring compliance with judgment
75.	Case of Lori Berenson Mejía	Peru	Monitoring compliance with judgment
76.	Case of Maritza Urrutia	Guatemala	Monitoring compliance with judgment

77.	Case of the Plan de Sánchez Massacre	Guatemala	Monitoring compliance with judgment
78.	Case of Molina Theissen	Guatemala	Monitoring compliance with judgment
79.	Case of Montero Aranguren <i>et al.</i>	Venezuela	Monitoring compliance with judgment
80.	Case of Myrna Mack Chang	Guatemala	Monitoring compliance with judgment
81.	Case of Neira Alegría <i>et al.</i>	Peru	Monitoring compliance with judgment
82.	Case of Palamara Iribarne	Chile	Monitoring compliance with judgment
83.	Case of Paniagua Morales <i>et al.</i>	Guatemala	Monitoring compliance with judgment
84.	Case of Perozo <i>et al.</i>	Venezuela	Monitoring compliance with judgment
85.	Case of the Saramaka People	Suriname	Monitoring compliance with judgment
86.	Case of Radilla Pacheco	Mexico	Monitoring compliance with judgment
87.	Case of Raxcacó Reyes	Guatemala	Monitoring compliance with judgment
88.	Case of Reverón Trujillo	Venezuela	Monitoring compliance with judgment
89.	Case of Ríos <i>et al.</i>	Venezuela	Monitoring compliance with judgment
90.	Case of Servellón García <i>et al.</i>	Honduras	Monitoring compliance with judgment
91.	Case of Suárez Rosero	Ecuador	Monitoring compliance with judgment
92.	Case of Tibi	Ecuador	Monitoring compliance with judgment
93.	Case of Ticona Estrada	Bolivia	Monitoring compliance with judgment
94.	Case of Tiu Tojín	Guatemala	Monitoring compliance with judgment
95.	Case of the Dismissed Congressional Employees	Peru	Monitoring compliance with judgment
96.	Case of Tristán Donoso	Panama	Monitoring compliance with judgment
97.	Case of Trujillo Oroza	Bolivia	Monitoring compliance with judgment
98.	Case of Usón Ramírez	Venezuela	Monitoring compliance with judgment
99.	Case of Valle Jaramillo <i>et al.</i>	Colombia	Monitoring compliance with judgment
100.	Case of Vargas Areco	Paraguay	Monitoring compliance with judgment
101.	Case of Ximenes Lopes	Brazil	Monitoring compliance with judgment
102.	Case of YATAMA	Nicaragua	Monitoring compliance with judgment
103.	Case of Yvon Neptune	Haiti	Monitoring compliance with judgment
104.	Case of Zambrano Vélez <i>et al.</i>	Ecuador	Monitoring compliance with judgment

2. Provisional measures

Forty-five provisional measures were active at the start of 2009. Of these seven were lifted during the year and, at the end of the year, 38 remained in effect.

2. a. Provisional measures lifted:

	Name	State regarding which they were adopted
1.	López Álvarez <i>et al.</i>	Honduras (Lifted)
2.	Carlos Nieto Palma <i>et al.</i>	Venezuela (Lifted)
3.	Gómez Paquiyauri Brothers	Peru (Lifted)
4.	Members of the Community Studies and Psychosocial Action Team (ECAP) (Case of the Plan de Sánchez Massacre)	Guatemala (Lifted)
5.	Liliana Ortega <i>et al.</i>	Venezuela (Lifted)
6.	James <i>et al.</i> , with regard to Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh). The examination of the State's obligations in relation to these 31 victims is substituted by the pertinent elements of monitoring compliance with the judgment in Hilaire, Constantine and Benjamin <i>et al.</i>	Trinidad and Tobago
7.	Tyrone Dacosta Cadogan. In the judgment of September 24, 2009, in the case with the same name, it was decided to lift the provisional measures because it was considered that the State's corresponding obligations were substituted by those ordered in the said judgment.	Barbados

2. b. Active provisional measures:

	Name	State regarding which they were adopted
1.	19 Tradesmen	Colombia
2.	Adrián Meléndez Quijano <i>et al.</i>	El Salvador
3.	Álvarez <i>et al.</i>	Colombia
4.	A. J. <i>et al.</i>	Haiti
5.	Bámaca Velásquez <i>et al.</i>	Guatemala
6.	Caballero Delgado and Santana	Colombia
7.	Urso Branco Prison	Brazil
8.	Carpio Nicolle <i>et al.</i>	Guatemala
9.	Peace Community of San José de Apartadó	Colombia
10.	Communities of the Jiguamiandó and of the Curbaradó	Colombia
11.	Eloisa Barrios <i>et al.</i>	Venezuela
12.	"Globovisión" Television Station	Venezuela
13.	Fernández Ortega <i>et al.</i>	Mexico
14.	Forensic Anthropology Foundation of Guatemala	Guatemala
15.	Giraldo Cardona	Colombia
16.	Gloria Giralt de García Prieto <i>et al.</i>	El Salvador
17.	Guerrero Gallucci and Martínez Barrios	Venezuela
18.	Guerrero Larez	Venezuela
19.	Gutiérrez Soler <i>et al.</i>	Colombia
20.	Haitians and Dominicans of Haitian Origin in the Dominican Republic	Dominican Republic
21.	Helen Mack <i>et al.</i>	Guatemala
22.	Monagas Detention Center ("La Pica"); Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); Occidental Region Penitentiary Center (Uribana Prison); Capital Detention Center El Rodeo I and El Rodeo II. In an order of the Court of November 24, 2009, these measures were joindered and expanded in favor of Humberto Prado.	Venezuela
23.	Dottin <i>et al.</i>	Trinidad and Tobago

24.	Andino Alvarado (Kawas Fernández)	Honduras
25.	Luis Uzcátegui	Venezuela
26.	Luisiana Ríos <i>et al.</i>	Venezuela
27.	María Leontina Millacura Llaipén <i>et al.</i>	Argentina
28.	Marta Colomina and Liliana Velásquez	Venezuela
29.	La Rochela Massacre	Colombia
30.	Mapiripán Massacre	Colombia
31.	Mery Naranjo <i>et al.</i>	Colombia
32.	Natera Balboa	Venezuela
33.	Mendoza Prisons	Argentina
34.	Pérez Torres <i>et al.</i> ("Campo Algodonero")	Mexico
35.	Kankuamo Indigenous People	Colombia
36.	Kichwa Indigenous People of Sarayaku	Ecuador
37.	Ramírez Hinojosa <i>et al.</i>	Peru
38.	Raxcacó <i>et al.</i>	Guatemala

VI. OTHER ACTIVITIES OF THE COURT

The following is a description of the principal activities of the Court during the current year:

Presentation of the 2008 Annual Report on the Work of the Inter-American Court of Human Rights

On March 19, 2009, the President of the Court, accompanied by the Vice President and the Secretaries of the Court presented the 2008 Annual Report on the work of the Inter-American Court to the OAS Committee on Juridical and Political Affairs (CAJP). During this activity, Judge Medina Quiroga presented a "Summary of the 2007 exercise."

Subsequently, on May 26, 2009, resolution CP/CAJP 2752/09 was adopted approving "Observations and Recommendations of the Permanent Council on the Annual Report of the Inter-American Court of Human Rights."



Thirty-ninth regular session of the General Assembly of the Organization of American States

The thirty-ninth regular session of the General Assembly of the Organization of American States was held from June 2 to 4, 2009, in San Pedro Sula, Honduras. The Inter-American Court was represented by its President, Vice President, Judge Ventura Robles and Secretaries.

On June 3, 2009, the President of the Court addressed the plenary session of the Assembly and, *inter alia*, referred to the importance of the international protection of human rights retaining the highest priority on the Organization's political agenda; to the hope that the States which had not yet acceded to the American Convention would become parties to it, and to incorporation of the criteria established by the Court into the domestic law of the States Parties. She also referred to the increase in the number of contentious cases, and the requests for advisory opinions and provisional measures submitted to the Court, which was one of the most important and worrying challenges for the inter-American jurisdiction, and to recognition of the importance of compliance with the Court's decisions and the efforts made by the States to ensure that they are fully respected.

On June 4, 2009, the OAS General Assembly approved the Court's 2008 Annual Report in Resolution AG/RES. 2500 (XXXIX-O/09). In this resolution the General Assembly resolved:

1. To adopt the Observations and Recommendations of Member States on the Annual Report of the Inter-American Court of Human Rights (CP/CAJP-2743/09) and to forward them to that organ.
2. To reaffirm the essential value of the work of the Inter-American Court of Human Rights in enhancing the protection and defense of human rights in the Hemisphere and the rule of law.
3. To reiterate that the judgments of the Inter-American Court of Human Rights are final and may not be appealed, and that the states parties to the American Convention on Human Rights undertake to comply with the Court's decisions in all cases to which they are party.
4. To reiterate the need for the states parties to provide, in a timely fashion, the information requested by the Court in order to enable it to fully meet its obligation to report to the General Assembly on compliance with its judgments.
5. To reaffirm the importance of:
 - a. The advisory and adjudicatory functions of the Inter-American Court of Human Rights for the development of inter-American jurisprudence and international human rights law;
 - b. The jurisprudence of the Inter-American Court of Human Rights for the effective exercise of and respect for human rights in the Hemisphere, and consequently the importance of the dissemination of its decisions by the member states;

- c. The special sessions of the Inter-American Court of Human Rights held away from its headquarters, given their importance in disseminating information on and raising awareness of the inter-American human rights system and especially of the work of the Inter-American Court;
 - d. The hearings held to monitor compliance with judgments as one of the most effective mechanisms to promote compliance with them; and
 - e. The training activities conducted by the Inter-American Court for judges and others involved in the administration of justice, aimed at promoting effective application of international human rights law at the national level.
6. To instruct the Permanent Council to:
 - a. Continue its consideration of the issue of "Access of victims to the Inter-American Court of Human Rights (*jus standi*) and its application in practice," including its financial and budgetary implications, taking into account the need to maintain procedural equity and to redefine the role of the Inter-American Commission on Human Rights (IACHR) in proceedings before the Court;
 - b. Continue to examine the possibility that the Inter-American Court of Human Rights may come to operate on a permanent basis, including the financial and budgetary implications thereof;
 - c. Continue to consider means of encouraging compliance by member states with the judgments of the Court; and
 - d. Continue examining, as a matter of priority, means to effectively increase financial allocations to the Inter-American Court of Human Rights in the program-budget of the Organization; and seek concrete solutions in that regard, taking into account the outcomes of the joint meeting of the Committee on Juridical and Political Affairs (CAJP) with the Committee on Administrative and Budgetary Affairs (CAAP) of February 5, 2009.
 7. To urge the Secretary General to submit, as a matter of priority, specific proposals aimed at securing adequate funding for the Inter-American Court of Human Rights in the regular program-budget, taking into account the document "Financial Needs (Short, Medium, and Long Range)" (CP/CAJP-2695/09), presented by the Executive Secretariat of the Court.
 8. To thank the member states (Brazil, Chile, Colombia, Costa Rica, and Mexico) and permanent observers (Norway and Spain), as well as the Office of the United Nations High Commissioner for Refugees, for their voluntary contributions to the Inter-American Court of Human Rights.
 9. To thank the people and the Government of the Dominican Republic for offering to host the thirty-eighth special session of the Court, held from March 30 to April 3, 2009, and for their support in making that session a success.



10. To thank the people and the Governments of Uruguay and Mexico for offering to host the thirty-fifth and thirty-seventh special sessions of the Court, held in those countries from August 11 to 15 and December 1 to 5, 2008, respectively, and for their support in making those sessions a success.

11. To reiterate to the Permanent Council that it should adopt the rules of procedure of the Legal Assistance Fund of the Inter-American Human Rights System, after consulting the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, taking into account the observations made by civil society.

12. To urge the member states to contribute to the Legal Assistance Fund of the Inter-American Human Rights System; and to urge the permanent observers and other donors to make voluntary contributions to the Court. Also to urge the member states, permanent observers, and other donors to make contributions to the bank account of the Inter-American Court for the Legal Assistance Fund of the Inter-American Human Rights System, to facilitate access to the Court by individuals who do not now have the necessary means to bring their cases before the system.

13. To encourage member states to continue to invite the Inter-American Court of Human Rights to hold special sessions away from its headquarters.

14. To urge the Inter-American Court of Human Rights to continue to hold specialized seminars on the inter-American system for the promotion and protection of human rights, for government officials, especially those involved in the administration of justice.

15. To support the initiative of the Inter-American Court of Human Rights to hold a seminar on current and future challenges to the inter-American system for the promotion and protection of human rights.

16. To invite the Inter-American Court of Human Rights to continue to participate, with its judges, in the dialogue with member states in the reflection process on strengthening the inter-American human rights system, within the context of the CAJP.

17. To invite the Inter-American Court to bear in mind the proposals and comments made by member states in the framework of the dialogue between the member states and the members of the IACHR and the Court, held on March 20, 2009, on the functioning of the inter-American human rights system, as well as the contributions by civil society, as set out in the report of that meeting (CP/CAJP-2769/09), and to adopt the measures it deems appropriate in the framework of its autonomy and independence.

18. To thank the Court for its willingness to dialogue with member states as part of the joint reflection process in the event of possible reforms to its Rules of Procedure.

19. To urge member states to consider the signature and ratification of, ratification of, or accession to, as the case may be, the American Convention on Human Rights and other instruments of the system, including acceptance of the binding jurisdiction of the Inter-American Court of Human Rights.

20. To request the Permanent Council to report to the General Assembly at its fortieth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

The same day, the OAS General Assembly adopted Resolution AG/RES. 2521 (XXXIX-O/09) entitled "Strengthening of Human Rights Systems pursuant to the mandates arising from the Summits of the Americas," in which it resolved:

1. To reaffirm the commitment of the member states to continue strengthening and improving the inter-American system for the promotion and protection of human rights and, in that connection, to continue to take the following concrete measures aimed at implementing the respective mandates of the Heads of State and Government arising from the Summits of the Americas:

a. Universalization of the inter-American human rights system by considering the signature and ratification or ratification of, or accession to, as soon as possible and as the case may be, all universal and inter-American human rights instruments;

b. Compliance with the judgments of the Inter-American Court of Human Rights and follow-up of the recommendations of the Inter-American Commission on Human Rights (IACHR);

c. Improvement of access by victims to the mechanisms of the inter-American human rights system;

d. Adequate financing of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, including the encouragement of voluntary contributions, so that they may continue to address their activities and responsibilities; and

e. Examination of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may come to operate on a permanent basis, taking into account, among other things, the views of those organs.

2. To recognize the following progress made in the specific areas of the inter-American human rights system, namely:

a. The broad process of reflection on the inter-American system for the promotion and protection of human rights, within the Committee on Juridical and Political Affairs (CAJP) of the Permanent Council, and the importance of the informal meetings held for that purpose in the framework of the CAJP and of the exchange of proposals and comments between the member states and the organs of the inter-American human rights system, regarding ways to strengthen and improve it, which were set forth in document CP/CAJP-2665/08 rev. 8 corr. 3, "Results of the Process of Reflection on the Inter-American System for the Promotion and Protection of Human Rights (2008-2009)," which was officially submitted on March 20, 2009, to the Presidents of the two organs of the system, as a contribution by the states to the

reform process that the IACHR and the Inter-American Court of Human Rights have embarked upon, in a context of full respect for the autonomy and independence of those organs;

b. The participatory and transparent processes for amending the Rules of Procedure of the Inter-American Commission on Human Rights and of the Inter-American Court of Human Rights and, in particular, the contributions to those processes resulting from the dialogue on the workings of the inter-American human rights system between the member states and the members of the IACHR and judges of the Inter-American Court of Human Rights, during which inputs were also received from civil society, as noted in the report on the meeting (CP/CAJP-2769/09); and

c. The deposit by Argentina and Chile, on September 5 and October 16, 2008, respectively, of their instruments of ratification to the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

3. To instruct the Permanent Council to meet the objectives mentioned in operative paragraph 1 and to complement and consolidate the progress referred to in operative paragraph 2, by:

a. Continuing the broad process of reflection on the inter-American system for the promotion and protection of human rights, as a matter of special importance in the work program of the CAJP adopted each year; to that end, meetings should be scheduled taking into account the proposals put forward in the discussions that took place in said Committee. Said process of reflection will continue in consultation with the member states, specialized agencies of the inter-American human rights system, nongovernmental organizations, national human rights institutes, academic institutions, and experts in the field, regarding:

i. The major challenges facing the inter-American system for the promotion and protection of human rights in the Hemisphere;

ii. Possible actions to strengthen and improve the system; and

iii. The advisability of convening an inter-American human rights conference;

b. Adopting measures, as a matter of priority, to achieve an effective increase in the financial resources allocated to the IACHR in the program-budget of the Organization; and thanking the Secretary General for his work in this regard and urging him to continue his efforts and to submit, prior to the fortieth regular session of the General Assembly, additional proposals aimed at achieving adequate funding for the IACHR in said program-budget;

c. Supporting any initiatives taken by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to request funding from international and regional agencies to further the activities of the organs of the inter-American system for the promotion and protection of human rights;

- d. Encouraging, in addition, member states to contribute to the Specific Fund for Strengthening the Inter-American System for the Protection and Promotion of Human Rights, as well as to the Oliver Jackman Voluntary Capital Fund, established by resolution AG/RES. 2329 (XXXVII-O/07);
 - e. Continuing to consider ways to promote compliance with the judgments of the Inter-American Court of Human Rights and follow-up of the recommendations of the Inter-American Commission on Human Rights by member states;
 - f. Continuing to analyze the priorities for improvement of the inter-American human rights system, including consideration of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may come to operate on a permanent basis, taking into account related information provided by the presidents of both organs;
 - g. Holding each year, within the CAJP, the dialogue between the member states and the members of the Inter-American Commission on Human Rights and judges on the Inter-American Court of Human Rights on how the inter-American human rights system operates. The CAJP will establish the agenda for said meeting at least two months in advance; and
 - h. Requesting the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to continue to report on the impact and the meaning in practice of their regulatory reforms for the work of both organs and for the strengthening of the system.
4. To express its appreciation to the member states (Brazil, Canada, Colombia, Mexico, and the United States) and permanent observers (Denmark, France, Ireland, Italy, Luxembourg, the Republic of Korea, Spain, and Sweden) that made voluntary contributions to the IACHR; to the European Commission and the University of Notre Dame (United States) for their contributions; and to Colombia and Panama for their contributions to the Oliver Jackman Voluntary Capital Fund.
 5. To continue to promote the strengthening of national systems for the promotion and protection of human rights in member states; and, to that end, to urge the pertinent organs, agencies, and entities of the Organization to provide, in accordance with their capabilities and resources, cooperation and technical support to the member states that so request, in order to help enhance compliance with their international human rights obligations, and to develop cooperative relations and information exchange with, *inter alia*, the Ibero-American Federation of Ombudsmen, the Caribbean Ombudsmen's Association, the Network of National Human Rights Institutions of the Americas, the Andean Council of Ombudsmen, and the Central American Ombudsman Council.
 6. To urge member states to consider signing and ratifying, ratifying, or acceding to, as the case may be, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador."
 7. To request the Permanent Council to report to the General Assembly at its fortieth regular session on the implementation of this resolution, the execution of which shall



be subject to the availability of financial resources in the program-budget of the Organization and other resources.

THE ORGANIZATION OF AMERICAN STATES

The Organization of American States (OAS) is the world's oldest regional organization, dating back to the First International Conference of American States, held in Washington, D.C., from October 1889 to April 1890. During that meeting, it was resolved to create the International American Conference. The Charter of the OAS was adopted in Bogota in 1948 and it entered into force in December 1951. The Charter was subsequently amended by the Protocol of Buenos Aires, signed in 1967, which entered into force in February 1970, by the Protocol of Cartagena de Indias, signed in 1985, which entered into force in November 1988, by the Protocol of Managua adopted in 1993, which entered into force on January 29, 1996, and by the Protocol of Washington, signed in 1992, which entered into force on September 25, 1997. Currently, the OAS has 35 Member States. Furthermore, the Organization has granted Permanent Observer status to more than 44 States and the European Union.

The basic purposes of the OAS are as follows: to strengthen the peace and security of the continent; to promote and consolidate representative democracy with due respect for the principle of non-intervention; to prevent the possible causes of difficulties and to ensure the peaceful settlement of disputes that may arise among its members; to provide for the common action of the Member States in the event of aggression; to seek the solution of political, juridical and economic problems that may arise among them; to promote, by cooperative action, their economic, social and cultural development, and to achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

The OAS accomplishes its purposes through the following organs: the General Assembly; the Meeting of Consultation of Ministers of Foreign Affairs; the Councils (the Permanent Council and the Inter-American Council for Integral Development); the Inter-American Juridical Committee; the Inter-American Commission on Human Rights; the General Secretariat; the Specialized Conferences; the Specialized Organizations, and other entities established by the General Assembly.

The General Assembly holds regular sessions once a year. In special circumstances, it meets in special sessions. The Meeting of Consultation is convened in order to consider matters of an urgent nature and of common interest and to serve as the Organ of Consultation for implementation of the Inter-American Treaty of Reciprocal Assistance (Rio Treaty), which is the principal instrument for common action in the event of aggression. The Permanent Council examines matters referred to it by the General Assembly or the Meeting of Consultation and executes the decisions of both these organs when implementation has not been assigned to any other entity; it monitors the maintenance of friendly relations among the Member States as well as the observance of the rules that govern the operation of the General Secretariat; it also acts provisionally as the Organ of Consultation for implementation of the Rio Treaty. The General Secretariat is the central, permanent organ of the OAS. The headquarters of both the Permanent Council and the General Secretariat is in Washington, D.C.

MEMBER STATES: Antigua and Barbuda, Argentina, Bahamas (Commonwealth of the), Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica (Commonwealth of), Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay and Venezuela.