

ORGANIZATION OF AMERICAN STATES

Inter-American Court on Human Rights



OEA/Ser.L/III.5  
doc. 13  
16 October 1981  
Original: Spanish

ANNUAL REPORT  
OF THE  
INTER-AMERICAN  
COURT OF HUMAN RIGHTS  
1981

GENERAL SECRETARIAT  
ORGANIZATION OF AMERICAN STATES  
WASHINGTON, D.C. 20006

**court**

1982

TABLE OF CONTENTS

	<u>Page</u>
I. ORIGIN, STRUCTURE AND COMPETENCE OF THE COURT . . . . .	1
A. Creation of the Court . . . . .	1
B. Organization of the Court . . . . .	1
C. Composition of the Court . . . . .	2
D. Competence of the Court . . . . .	3
1. The Court's contentious jurisdiction . . . . .	3
2. The Court's Advisory Jurisdiction . . . . .	5
3. Acceptance of the jurisdiction of the Court . . . . .	6
E. Budget . . . . .	6
F. Relations with other organs of the system and with regional and worldwide agencies of the same kind . . . . .	7
II. ACTIVITIES OF THE COURT . . . . .	8
A. Tenth Regular Session of the OAS General Assembly . . . . .	8
B. Fourth Regular Session of the Court . . . . .	8
C. Fifth Regular Session of the Court . . . . .	10
APPENDICES	
1. GOVERNMENT OF COSTA RICA (IN THE MATTER OF VIVIANA GALLARDO ET AL.) - DECISION . . . . .	13
2. AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA AND THE INTER-AMERICAN COURT OF HUMAN RIGHTS . . . . .	16
3. AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, COSTA RICA" . . . . .	28

## I. ORIGIN, STRUCTURE AND COMPETENCE OF THE COURT

### A. Creation of the Court

The Inter-American Court of Human Rights was brought into being by the entry into force of the American Convention on Human Rights (Pact of San José, Costa Rica), which occurred on July 18, 1978 upon the deposit of the eleventh instrument of ratification by a member state of the Organization. The Convention had been drafted at the Specialized Inter-American Conference on Human Rights, which took place November 7-22, 1969 in San José, Costa Rica.

The two organs provided for under Article 33 of the Pact are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. They have competence on matters relating to the fulfillment of the commitments made by the States Parties to the Convention.

### B. Organization of the Court

In accordance with the terms of its Statute, the Inter-American Court of Human Rights is an autonomous judicial institution which has its seat in San José, Costa Rica and whose purpose is the application and interpretation of the American Convention on Human Rights.

The Court consists of seven judges, nationals of the member states of the Organization of American States, who act in an individual capacity and are elected 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 states of which they are nationals or the state that proposes them as candidates." (Article 52 of the Convention).

The judges serve for a term of six years. They are elected by an absolute majority vote of the States Parties to the Convention. The election is by secret ballot in a General Assembly of the Organization.

Upon entry into force of the Convention and pursuant to its Article 81, the Secretary General of the Organization requested the States Parties to the Convention to nominate candidates for the position of judge of the Court. In accordance with Article 53 of the Convention, each State Party may propose up to three candidates.

The judicial term runs from July 1 of the year in which a judge assumes office until June 30 of the year in which he completes his term. However, judges continue in office until the installation of their successors or to hear cases that are still pending. (Article 5 of the Statute).

Election of judges takes place, insofar as possible, at the OAS General Assembly immediately prior to the expiration of the term of the judges. In the case of vacancies on the Court caused by death, permanent disability, resignation or dismissal, an election is held at the next General Assembly. (Article 6).

In order to preserve a quorum of the Court, interim judges may be appointed by the States Parties. (Article 6.3).

In the event that one of the judges called upon to hear a case is the national of one of the states parties to the case, the other states parties to the case may appoint an ad hoc judge. If none of the states parties to a case is represented on the Court, each may appoint an ad hoc judge. (Article 10).

The judges are at the disposal of the Court and, pursuant to the Rules of Procedure, meet in two regular sessions a year and in special sessions when convoked by the President or at the request of a majority of the judges. Although the judges are not required to reside at the seat of the Court, the President renders his services on a permanent basis. (Article 16 of the Statute and Articles 11 and 12 of the Rules of Procedure).

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

There is a permanent commission composed of the President, Vice President and a judge named by the President. The Court may appoint other commissions for special matters. (Art. 6 of the Rules of Procedure).

The Secretariat of the Court functions under the direction of the Secretary, who is elected by the Court.

#### C. Composition of the Court

The Court is composed of the following judges, in order of precedence:

Carlos Roberto Reina (Honduras), President  
Pedro A. Nikken (Venezuela), Vice President  
Huntley Eugene Munroe (Jamaica)  
César Ordóñez Quintero (Colombia)  
Máximo Cisneros Sánchez (Perú)  
Rodolfo Piza Escalante (Costa Rica)  
Thomas Buergenthal (United States)

The Secretary of the Court is Mr. Charles Moyer and the Deputy Secretary is Lic. Manuel E. Ventura.

D. Competence of the Court

The American Convention confers two distinct functions on the Inter-American Court of Human Rights. One involves the power to adjudicate disputes relating to charges that a State Party has violated the Convention. In performing this function, the Court exercises its so-called contentious jurisdiction. In addition, the Court also has power to interpret the Convention and certain other human rights treaties in proceedings in which it is not called upon to adjudicate a specific dispute. This is the Court's advisory jurisdiction.

1. The Court's contentious jurisdiction

The contentious jurisdiction of the Court is spelled out in Article 62 of the Convention, which reads as follows:

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 special agreement.

As these provisions indicate, a State Party does not subject itself to the contentious jurisdiction of the Court by ratifying the Convention. Instead, the Court acquires that jurisdiction with regard to the state only when it has filed the special declaration referred to in paragraphs 1 and 2 of Article 62 or concluded the special agreement mentioned in paragraph 3. The special declaration may be made when a state ratifies the Convention or at any time thereafter; it may also be made for a specific case or a series of cases. But since the states parties are free to accept the Court's jurisdiction at any time in a specific case or in general, a case need not be rejected ipso facto when acceptance has not previously been granted, as it is possible to invite the state concerned to do so for that case.

A case may also be referred to the Court by special agreement. In speaking of the special agreement, Article 62.3 does not indicate who

may conclude such an agreement. This is an issue that will have to be resolved by the Court.

In providing that "only the States Parties and the Commission shall have the right to submit a case to the Court," Article 61.1 does not give private parties standing to institute proceedings. Thus, an individual who has filed a complaint with the Commission cannot bring that case to the Court. This is not to say that a case arising out of an individual complaint cannot get to the Court; it may be referred to it by the Commission or a State Party, but not by the individual complainant.

The Convention, in Article 63.1, contains the following stipulation relating to the judgments that the Court may render:

1. 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.

This provision indicates that the Court must decide whether there has been a breach of the Convention and, if so, what rights the injured party should be accorded. Moreover, the Court may also determine the steps that should be taken to remedy the breach and the amount of damages to which the injured party is entitled.

Paragraph 2 of Article 68 of the Convention exclusively concerns compensatory damages. It provides that the "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."

In addition to regular judgments, the Court also has the power to grant what might be described as temporary injunctions. This power is spelled out in Article 63.2 of the Convention, which reads as follows:

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.

This extraordinary remedy is available in two distinct circumstances: the first consists of cases pending before the Court and the second involves complaints being dealt with by the Commission that have not yet been referred to the Court for adjudication.

In the first category of cases, the request for the temporary injunction can be made at any time during the proceedings before the Court, including simultaneously with the filing of the case. Of course, before the requested relief may be granted, the Court must determine if it has this necessary jurisdiction.

The judgment rendered by the Court in any dispute submitted to it is "final and not subject to appeal." Moreover, the "States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." (Articles 67 and 68 of the Convention).

Enforcements of judgments of the Court are ultimately for the General Assembly of the Organization. The Court submits a report on its work to each regular session of the Assembly, specifying the cases in which a state has not complied with the judgments and making any pertinent recommendations. (Article 65 of the Convention).

## 2. The Court's Advisory Jurisdiction

The jurisdiction of the Inter-American Court of Human Rights to render advisory opinions is set forth in Article 64 of the Convention, which reads as follows:

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.

Standing to request an advisory opinion from the court is not limited to the States Parties to the Convention; instead, any OAS Member State may ask for it as well as all OAS organs, including the Inter-American Commission of Human Rights, specialized bodies such as the Inter-American Commission of Women and the Inter-American Institute of Children, within their fields of competence. Secondly, the advisory opinion need not deal only with the interpretation of the Convention; it may also be founded on a request for an interpretation of any other treaty "concerning the protection of human rights in the American States."

The Court's advisory jurisdiction power enhances the Organization's capacity to deal with complex legal issues arising under the Convention. Its advisory jurisdiction therefore extends to the political organs of the OAS in dealing with disputes involving human rights issues.

Finally, Article 64.2 permits OAS Member States to seek an opinion from the Court on the extent to which their domestic laws are compatible with the Convention or with any other "American" human rights treaty.

Under the provision, this jurisdiction also extends to pending legislation. Resort to this provision could contribute very significantly to the uniform application of the Convention by national tribunals.

3. Acceptance of the jurisdiction of the Court

At the end of 1980 only one State Party to the American Convention on Human Rights (Costa Rica) had recognized as binding the jurisdiction of the Court on all matters relating to the interpretation and application of the Convention. (Article 62.1 of the Convention).

However, on January 21, 1981 the Government of Peru, in compliance with Section Sixteen of Title VIII of its Constitution, became the second State Party to deposit its instrument of acceptance of the jurisdiction of the Court.

Subsequently, Venezuela, following the adoption of a joint resolution on May 28, 1981 by its Chamber of Deputies and the Senate of that country, on June 24, 1981 joined Costa Rica and Peru in recognizing the jurisdiction of the Court.

Moreover, the National Constitutional Assembly of Honduras, in its Decree No. 51 dated March 31, 1981, accepted the jurisdiction of the Court. On September 9, 1981, the Government deposited the respective to become the Fourth State Party to accept the jurisdiction of the Court.

It should be pointed out that, according to the provisions of Article 62, any State Party to the Convention may accept the jurisdiction of the Court in a specific case without recognizing it for all cases. Cases may also be submitted to the Court by special agreement between States Parties to the Convention.

A table showing the status of ratifications of the American Convention may be found at the end of this report. (Appendix III).

E. Budget

The presentation of the budget of the Court is regulated by Article 72 of the American Convention which states 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." Pursuant to Article 26 of its Statute, the Court administers its own budget.

For the biennial 1982-83 the Court submitted a budget of \$356,700 for 1982 and \$382,300 for 1983. Leaving aside personnel items, the 1982 budget envisages an increase of some \$30,000 over the 1981 budget and an addition of some \$20,000 for 1983. In submitting its budget the Court did not consider the increase to be extravagant considering in particular that the Court's 1980 budget was an emergency measure which provided an



unrealistic base from which the 1981 budget was calculated. Moreover, this biennial budget takes into account an enlarged workload projected for those years, based on the growing number of State Parties to the Convention which are accepting the jurisdiction of the Court and the increasing indications that the Court will receive a number of requests for advisory opinions.

The only personnel item that was added to the budget is the request for a permanent librarian to take charge of the growing library/documentation center necessary for the operation of the Court.

The budget presented by the Court was reduced by the Advisory Commission on Administrative and Budgetary Matters (CAAAP) to \$290,500 in 1982 and \$299,200 in 1983. These figures were further reduced by the Commission on Program-Budget to \$284,100 in 1982 and \$288,900 in 1983. However, in its meeting held on August 6, 1981, after hearing the presentation of Judge Thomas Buergenthal on the needs of the Court, this Commission arrived at a consensus of a total budget of \$300,000 for the Court for the year 1982.

F. Relations with other organs of the system and with regional and worldwide agencies of the same kind

The Court has close institutional ties with its sister organ of the American Convention, the Inter-American Commission on Human Rights. These ties have been solidified by a series of meetings between members of the two bodies. The Court also maintains cooperative relations with other OAS bodies working in the area of human rights, such as the Inter-American Commission of Women and the Inter-American Juridical Committee. It has established especially strong ties with the European Court of Human Rights, which was established by the Council of Europe and exercises functions within the framework of that Organization comparable to those of the Inter-American Court. The Court also maintains relations with the pertinent bodies of the United Nations such as the Commission and Committee on Human Rights and the Office of the High Commissioner for Refugees.

## II. ACTIVITIES OF THE COURT

### A. Tenth Regular Session of the OAS General Assembly

The Court was represented at the Tenth Regular Session of the General Assembly of the Organization, held November 19-27, 1980 in Washington, D.C. by its Permanent Commission, consisting of President Rodolfo Piza Escalante, Vice President Máximo Cisneros and Judge Thomas Burgenthal, pursuant to a decision adopted by the Court at its Third Regular Session.

The Annual Report of the Court was presented by President Piza to the Commission on Juridical and Political Matters of the Assembly and a draft resolution was adopted by consensus expressing the recognition of the Organization of American States for the work accomplished by the Court and also expressing the hope that more member states of the OAS would ratify or adhere to the American Convention on Human Rights and adopt "The measures that will enable them to use the consultative, conciliatory and jurisdictional mechanisms established by the Convention." This draft resolution was later ratified by a plenary session of the Assembly. (AG/RES. 507 (X-0/80)).

The Court had drawn up a budget of \$439,000 for 1981 which, after two hearings by the OAS Program and Budget Commission, was reduced to \$240,400, the sum adopted by the General Assembly.

At its Tenth Regular Session, the General Assembly amended its Rules of Procedures so as to designate the Court as one of the "organs or agencies of the inter-American system (that) may attend the General Assembly with the right to speak."

Reference to the Court was also made in the General Assembly in the case relating to the competence of the Inter-American Commission on Human Rights to deal with the situation of human rights in Cuba. On that occasion it was formally proposed that an advisory opinion on the matter be sought from the Court. However, this draft resolution was not adopted because it received only 11 of the 14 necessary votes.

### B. Fourth Regular Session of the Court

The Court held its Fourth Regular Session January 15-24, 1981 at its seat in San José. The following judges attended this session: Rodolfo Piza Escalante (President), Máximo Cisneros Sánchez (Vice President), Huntley Eugene Munroe, César Ordoñez Quintero, Carlos Roberto Reina and Thomas Buergenthal. Judge Pedro Nikken was unable to attend due to prior commitments.

The judges amended the Rules of Procedure to authorize the President to delegate the legal representation of the Court. Article 4.2 of the Rules of Procedure now reads as follows:

"The President may delegate, in specific cases, the official or legal representation of the Court to the Vice President or any of the judges or, if necessary, to the Secretary or Deputy Secretary."

The Court also completed and sent to the Government of Costa Rica for its approval the Agreement between the Court and the host country setting forth the standards that will govern such matters as the immunities of the judges and those persons appearing before the Court.

The Court drew up a draft budget for the biennial 1982-83 which it then sent to the appropriate bodies of the Organization. As is detailed in an earlier part of this Report, the judges decided that the sums of \$356,700 and \$382,300, respectively, would meet the financial needs of the Court for those two years.

Included in the agenda of this session was a special meeting in which the Ambassador of Peru in Costa Rica formally announced the acceptance by his Government of the compulsory jurisdiction of the Inter-American Court in all cases. This ceremony took place at the actual moment of the deposit of the instrument of acceptance in the seat of the OAS in Washington, D.C.

The Court honored the memory of the late President of the European Court of Human Rights, Prof. Giorgio Balladore Pallieri, in a ceremony which was attended by the Ambassador of Italy in Costa Rica, officials of the Costa Rican Foreign Ministry and some of his former students. The President of the Inter-American Court spoke of the contributions of Prof. Balladore Pallieri in the field of human rights and recalled the participation of this late jurist in the drafting of the American Convention on Human Rights at the Specialized Inter-American Conference on Human Rights in 1969.

The Court took advantage of this session to install the Executive Council of the Inter-American Institute of Human Rights, which has its seat in San José. The Charter of the Institute had been approved by the Legislative Branch of Costa Rica on October 15, 1980. The first Executive Council is composed of Thomas Buergenthal (President), Marco Gerardo Monroy Cabra and Carlos Roberto Reina (Vice Presidents), Héctor Cuadra, Carmen Delgado Votaw, Tom J. Farer, Raúl Ferrero, Heribert Golsong, Hector Gros Espiell, Jorge A. Montero, Pedro Nikken, Gonzalo Ortiz Martín, Eduardo Ortiz Ortiz, Cristian Tattenbach, Luis Demetrio Tinoco, Judith Torney and Fernando Volio Jiménez. According to the Statute of the Institute, the other judges of the Court are ex-officio members of the Executive Council.

At its first meeting the Council elected Hernán Montealegre, a distinguished Chilean lawyer, as the first Executive Director of the Institute.

C. Fifth Regular Session of the Court

The Fifth Regular Session of the Court was held July 16-25, 1981. All of the judges attended this session.

In accordance with its policy of favoring the periodic rotation of judges and nationalities as officers of the Court, the judges elected Carlos Roberto Reina (Honduras) and Pedro A. Nikken (Venezuela) as President and Vice President, respectively, for a period of two years.

The Court received an application from the Government of Costa Rica in which the latter asked the Court to decide whether there had been a violation of human rights in a case involving the death of a young Costa Rican, accused of terrorist activities, who was killed in her jail cell by a member of the Civil Guard, and in the case of the wounding of her two cell-mates. In its application the Government waived the requirement of the exhaustion of domestic remedies and the procedures before the Inter-American Commission on Human Rights set forth in Articles 48-50 of the American Convention. With respect to this case, the Court decided to request the Government of Costa Rica and the Inter-American Commission to present their points of view on the jurisdiction of the Court in the present case and resolved to decide this preliminary question in a special meeting to be held in November of 1981. The Court's decision is reproduced in Appendix I.

The Court received the observations of the Government of Costa Rica to the draft Headquarters Agreement between the Court and the Government and, in turn, made various counter-proposals. These were accepted by the Government and the Agreement was signed by the Foreign Minister and the Minister of Justice and the President of the Court in a ceremony that was held September 10, 1981 in the Ministry of Foreign Affairs of Costa Rica. This Agreement (Appendix II) has now been sent to the Legislative Assembly of the host country for ratification.

In observance of the bicentennial of the birth of Andrés Bello, the Court honored this distinguished Venezuelan humanist and jurist. The main speakers at this event were Dr. Rafael Caldera, ex-President of the Republic of Venezuela and President of the Andrés Bello Society, and Judge Pedro Nikken. The ceremony was attended by high governmental officials, the diplomatic corps, and other distinguished guests. At the conclusion of the ceremony, Dr. Caldera presented the Court with a bust of Bello and Ambassador Aquiles Certad of Venezuela donated an engraving of the famous Venezuelan to the Court.

The Court held a special meeting with the President of the General Assembly of the United Nations, Ambassador Rudiger von Wechmar, who was on an official visit to Costa Rica and informed him of the activities of the Court.

The Court also heard the report of the President and Executive Director of the Inter-American Institute of Human Rights, Judge Buergenthal and Mr. Montealegre, respectively, on the development of the Institute. They reported that the Institute had received considerable encouragement from government agencies of the Americas and Europe as well as from international institutions interested in human rights. Specifically mentioned were financial contributions and concrete plans to collaborate in seminars, symposia, etc. on the subject.

GOVERNMENT OF COSTA RICA (IN THE MATTER OF VIVIANA GALLARDO ET AL.)

N° G 101/81

DECISION

WHEREAS

1. The Government of Costa Rica, represented by Elizabeth Odio Benito, the Agent duly accredited for this case by that Government, and invoking Article 62 (3) of the American Convention on Human Rights, submitted to this Court on July 15, 1981 an application requesting the Court to decide whether in the case involving the death of Viviana Gallardo Camacho and the wounding of Alexandra María Bonilla Leiva and Magaly Salazar Nassar the national authorities of Costa Rica committed a violation of human rights guaranteed by the Pact of San José,
2. The Government of Costa Rica has stated that, for the purposes of this case, it "formally waives the requirement for the prior exhaustion of all domestic legal remedies and the prior exhaustion of the procedures set forth in Articles 48 to 50 of the Convention,"
3. The Government of Costa Rica further requested that "if the Court should decide that it lacks the power to deal with the application before the procedures set forth in Articles 48 to 50 of the Convention have been completed, this application be referred to the Inter-American Commission on Human Rights pursuant to the terms of its jurisdiction,"

CONSIDERING THAT

1. Costa Rica, as a State Party to the American Convention on Human Rights which, in addition, has accepted the general jurisdiction of this Court pursuant to Article 62 of the Convention, has standing to submit cases to the Court under Article 61 (1) of the Convention;

2. Article 46 of the Convention contains the requirement for the prior exhaustion of domestic legal remedies and prescribes that its meaning be ascertained in accordance with generally recognized principles of international law;
3. Article 61 (2) of the Convention provides that "in order for the Court to hear a case, it is necessary that the procedures set forth in Articles 48 to 50 shall have been completed;"
4. The circumstances of this case require the Court to decide first on the effect to be given to the waiver of the aforementioned procedures by Costa Rica and, in general, to determine its jurisdiction to deal with the case at this stage;
5. Article 57 of the Convention provides that "the Commission shall appear in all cases before the Court."

NOW, THEREFORE, THE INTER-AMERICAN COURT OF HUMAN RIGHTS

1. Decides that, before determining whether it has jurisdiction and before considering any other aspect of the case, it is appropriate for this Court to give the Government of Costa Rica and the Inter-American Commission on Human Rights the opportunity to present their views concerning the jurisdiction of the Court to deal with the case at this stage.
2. Requests that the Government of Costa Rica present its arguments concerning the jurisdiction of the Court to deal with the instant case at this stage.
3. Requests that the Inter-American Commission on Human Rights, taking into account Article 57 of the Convention, provide this Court with its views concerning the jurisdiction of the Court to deal with the instant case at this stage.
4. Instructs the President, after conferring with the Government of Costa Rica and the Commission, to set an appropriate period within which the pertinent submissions are to be presented and, following consultation with the Court's Permanent Commission, to convene the Court to render a decision.

5. Instructs the Secretary to transmit the present resolution to the Government of Costa Rica and the Inter-American Commission on Human Rights and to bring its adoption to the attention of the States Parties to the Convention and the Secretary General of the Organization of American States.

Done in Spanish and English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this 22nd day of July, 1981.

CARLOS ROBERTO REINA  
PRESIDENT

PEDRO A. NIKKEN

HUNTLEY EUGENE MUNROE

CESAR ORDOÑEZ

MAXIMO CISNEROS

RODOLFO PIZA

THOMAS BUERGENTHAL

CHARLES MOYER  
SECRETARY



AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA AND  
THE INTER-AMERICAN COURT OF HUMAN RIGHTS

WHEREAS:

The Government of the Republic of Costa Rica signed the American Convention on Human Rights (Pact of San José, Costa Rica) on November 22, 1969 at the Specialized Inter-American Conference on Human Rights;

The Legislative Assembly of the Republic of Costa Rica ratified the American Convention on Human Rights by means of Law No. 4534 of February 23, 1970;

Costa Rica deposited its instrument of ratification of the Pact of San José on April 8, 1970 with the General Secretariat of the Organization of American States;

The American Convention on Human Rights, which provides for the creation of the Inter-American Court of Human Rights, entered into force on July 18, 1978 and, as a consequence, the States Parties to the Convention, during the Seventh Special Session of the General Assembly of the OAS, elected on May 22, 1979 the first seven judges, who were sworn in by the Secretary General of the Organization at the seat of the regional body in Washington, D. C. on June 29, 1979; the Court being later installed in its own seat in a ceremony which took place on September 3, 1979 in the National Theatre in San José, Costa Rica;

The General Assembly of the Organization of American States, at its Eighth Regular Session, held in June 1978, in adopting Resolution AG/RES. 372 (VIII-0/78) recommended that San José, the Capital of Costa Rica, be the seat of the Inter-American Court of Human Rights;

The representatives of the States Parties to the American Convention on Human Rights, at the Sixth Special Session of the General Assembly of the Organization of American States, in a meeting held on November 20, 1978 in accordance with Article 58 of the Convention, chose San José, Costa Rica as the seat of the Court;

The Statute of the Inter-American Court of Human Rights, adopted by means of Resolution AG/RES. 448 (IX-0/79) of the Ninth Regular Session of the General Assembly of the OAS, held in La Paz, Bolivia in October 1979, provides in its Article 27.1 that the relations of the Court with the host country shall be governed through a headquarters agreement and also provides in its Article 15.5 that the immunities and privileges of the judges of the Court and its staff may be regulated or supplemented by multilateral or bilateral agreements between the Court, the OAS and its Member States;

The Government of Costa Rica, hereinafter Government, represented by its Minister of Foreign Affairs and Worship, Dr. Bernd Niehaus Quesada, and its Acting Minister of Justice, Lic. Mercedes Valverde Kopper, on the one hand, and the Inter-American Court of Human Rights, hereinafter Court, represented by its President, Dr. Carlos Roberto Reina, on the other hand,

ARRIVE AT THE FOLLOWING AGREEMENT WITH THE HOST COUNTRY WHICH INCLUDES THE IMMUNITIES AND PRIVILEGES OF THE COURT, ITS JUDGES, ITS STAFF, AND THOSE PERSONS WHO APPEAR BEFORE IT.

## CHAPTER I

### JURIDICAL PERSONALITY AND ORGANIZATION

ARTICLE 1: The Inter-American Court of Human Rights is an autonomous judicial body of the inter-American system established by virtue of the American Convention on Human Rights. The Court possesses international juridical personality and enjoys all the rights, attributes and powers due it in accordance with the provisions of the Convention, its Statute and its regulations.

ARTICLE 2: The Court has its seat, which shall be international in nature, in San José, Costa Rica. The Secretariat of the Court shall be established there.

ARTICLE 3: To facilitate and strengthen the development of the activities that it will carry out in the Republic of Costa Rica, the Court may enter into agreements of cooperation with such institutions as law schools, bar associations, courts, academies and educational or research institutions dealing with disciplines related to human rights in order to obtain their cooperation and to strengthen and promote the juridical and institutional principles of the Convention, in general, and of the Court, in particular.

## CHAPTER II

### LEGAL CAPACITY, PRIVILEGES AND IMMUNITIES OF THE COURT

ARTICLE 4: In accordance with its nature as a juridical person, the Court is able to:

- a) enter into contracts;
- b) acquire immovable and movable property in fulfillment of the goals of the institution and to dispose freely of these assets and,
- c) institute legal and administrative proceedings, when it is in its interest, with capacity to waive the jurisdictional immunity which it shall enjoy in Costa Rica as an international body.

ARTICLE 5: The Court shall enjoy the immunities and privileges set forth in the Agreement on Privileges and Immunities of the Organization of American States of May 15, 1949 (ratified by Costa Rica by means of Decree-Law No. 753 of October 6, 1949), mutatis mutandis, as well as any other provided for in the present Agreement, taking into account the importance and independence of the Court.

ARTICLE 6: , The premises and archives of the Court shall be inviolable; these, its property and assets, wherever located, shall be immune from search,

requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

ARTICLE 7: The Court, its assets, income and other property shall be exempt from:

- a) all direct taxes, present or future, except when such taxes are charges for public utility services;
- b) customs duties or charges of a like nature, and from any other taxes, contributions or restrictions, present or future, with respect to articles and vehicles which it imports or exports for its official use. It is understood, however, that articles imported under such exemptions shall not be sold in the country, except under conditions agreed to by the Government, which may not be less favorable than those established for resident diplomatic missions;
- c) customs duties, prohibitions and restrictions, present or future, on imports and exports of its publications.

ARTICLE 8: Without being restricted by financial controls, regulations or moratoria of any kind, the Court:

- a) may hold funds in a foreign currency and operate accounts in any currency;
- b) shall be free to transfer its funds within the country or to another country and to convert any currency held by it into any other currency.

In exercising these rights, due regard shall be paid to any recommendations of the Government insofar as it is considered that effect can be given to such recommendations without detriment to the interests of the Court.

ARTICLE 9: The Court, its assets, income and other property shall enjoy immunity from every form of judicial or administrative process and shall not

be subject to the jurisdiction of national courts except insofar as it has expressly waived its immunity in a particular case. It is understood that such waiver of immunity shall not have the effect of subjecting such assets and property to any measure of execution.

ARTICLE 10: The Court shall enjoy in the Republic of Costa Rica a total franking privilege and a favorable treatment of its official communications equal to that accorded to diplomatic missions in the matter of priorities, rates and taxes on cables, teletypes, telegrams, radiograms, telephones and other means of communication as well as in press rates for information to be made public by any means of communication.

No censorship shall be applied to the correspondence and other official communications of the Court.

The Court shall have the right to use codes and to send and receive its correspondence by courier or sealed pouches, enjoying for the purpose the same privileges and immunities as the mail, couriers and diplomatic pouches.

### CHAPTER III

#### IMMUNITIES AND PRIVILEGES OF THE JUDGES OF THE COURT

ARTICLE 11: In accordance with Article 70 of the American Convention on Human Rights, the judges shall enjoy, from the moment of their election and throughout their term of office, all of the immunities and privileges, exemptions, including customs exemptions, granted to the heads of diplomatic missions accredited to the Government of Costa Rica, which shall not be less than those granted by the Vienna Convention on Diplomatic Relations, ratified by the Legislative Assembly of the Republic of Costa Rica by means of Law No. 3394 of September 24, 1964, and by the Agreement on Privileges and Immunities of the Organization of American States of May 15, 1949,

ratified by the Republic of Costa Rica by means of Decree-Law No. 753 of October 6, 1949, and other treaties in force in the matter, without conditions of reciprocity.

However, the Government of Costa Rica shall not grant tax or patrimonial exemptions for those judges who are nationals of the country, except with respect to their official acts or in relation to their service with the Court but, in any case, they shall not be subject to measures of administrative or judicial restriction, execution or compulsion, unless their immunity has been waived by the Court.

The application of the immunities and privileges set forth in this Article regarding the private or economic professional activities of the judges shall be in line with the provisions of paragraphs 1, 2 and 3 of Article 31 of the Vienna Convention on Diplomatic Relations.

Ad-hoc and interim judges shall enjoy the same immunities, privileges and exemptions during their term, with the aforementioned exception referring to nationals of the country.

ARTICLE 12: The judges of the Court shall have the right to hold, from the moment of their election and throughout their term of office, a Costa Rica diplomatic document.

If the country of origin does not issue a diplomatic passport to a judge, the Court shall request the Government of Costa Rica to issue him a Costa Rican diplomatic passport, if it is considered necessary to discharge his functions.

Judges on official visits to countries in which the Republic of Costa Rica has diplomatic missions or consuls shall have the right to be received and aided by those missions and consuls and to receive the courtesies in keeping with their high position.

ARTICLE 13: The spouses, minor children and dependents of the judges shall enjoy the same immunities and privileges as family members of diplomatic agents, with the same conditions and exceptions established in Article 11 of this Agreement.

CHAPTER IV

IMMUNITIES AND PRIVILEGES OF THE SECRETARY AND  
DEPUTY SECRETARY OF THE COURT

ARTICLE 14: In order that they may carry out their duties, the Secretary and the Deputy Secretary of the Court and their family members specified in Article 13, shall be granted the same immunities and privileges, exemptions, including customs exemptions that are granted to the judges in Article 11, with the same exceptions set forth in that Article and the exception that they shall not be granted the category of chiefs of mission.

CHAPTER V

IMMUNITIES AND PRIVILEGES OF THE STAFF OF THE COURT

ARTICLE 15: The technical and administrative staff of the Court shall enjoy the same privileges and immunities, with the same conditions and exceptions, provided for in the Agreement on Privileges and Immunities of the Organization of American States of May 15, 1949, ratified by Costa Rica by means of Decree-Law No. 753 of October 6, 1949, mutatis mutandis, as well as in any other treaties in force.

ARTICLE 16: The Court, through its Secretary or Deputy Secretary, shall inform the Government of the names of the staff members entitled to the prerogatives and immunities mentioned in this Chapter.

CHAPTER VI

PREROGATIVES OF DIPLOMATIC COURTESY

ARTICLE 17: The Executive Branch and the Inter-American Court of Human Rights shall regulate by common accord this Agreement and shall establish the equivalencies and prerogatives of diplomatic courtesy of the judges, secretaries and staff members of the Court, in accordance with the American Convention on Human Rights, the Statute of the Court and the other instruments cited in this Agreement.

ARTICLE 18: The precedence of the Court and of its judges as well as other ceremonial aspects shall be determined by an exchange of notes between the Minister of Foreign Affairs and Worship and the President of the Court, taking into account the standards applicable to other international courts of justice.

CHAPTER VII

FACILITIES OF IMMIGRATION AND RESIDENCY

ARTICLE 19: The judges and all professional staff members of the Court, be they permanent or temporary, and their relatives who live with them, shall be immune from immigration restrictions and alien registration and shall be aided in entering, residing and leaving the country in fulfillment of their missions. This provision shall also cover those persons, although not professional staff members of the Court, who visit the country at the request of the institution in order to carry out duties related to the fulfillment of official missions.

ARTICLE 20: The Ministry of Foreign Affairs and Worship shall issue to the professional staff members of the Court and their relatives who live with them, whose position has been officially communicated to the Ministry and with respect to whom the necessary information has been furnished, an identification document which shall vouch for their condition to the national authorities.



ARTICLE 21: The provisions of the previous articles shall not free the Court from submitting, when so requested, proof showing that the persons requesting the prerogatives have a right to them.

ARTICLE 22: None of these provisions shall be thought to exclude the application of the rules of health and quarantine.

## CHAPTER VIII

### CHARACTER OF THE IMMUNITIES AND PRIVILEGES

ARTICLE 23: The immunities and privileges are granted to the professional staff members of the Court exclusively in the interest of the institution. Therefore, the President of the Court shall waive the immunity of any professional or other staff member in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Court.

The immunities and privileges of the judges may only be waived by the Court.

ARTICLE 24: The Court, when so requested by the Government, shall cooperate with the appropriate authorities of the country to facilitate the proper administration of justice, to ensure the observance of police regulations and to prevent the occurrence of any abuse in connection with the immunities and privileges mentioned in this Agreement.

ARTICLE 25: The Court shall take the necessary measures for the appropriate settlement of disputes:

- a) arising out of contracts or other matters of a private law character in which the Court is a party;
- b) involving any professional staff member of the Court in which he enjoys immunity, if immunity has not been waived by the President in accordance with Article 23.

CHAPTER IX

IMMUNITIES AND PRIVILEGES OF THOSE PERSONS  
WHO APPEAR BEFORE THE COURT

ARTICLE 26: The Government of the Republic of Costa Rica shall recognize for the representatives of the parties, their advisors and attorneys, for the representatives of the Inter-American Commission on Human Rights and for those persons who are asked to attend as well as for witnesses, experts and other persons whom the Court decides to hear, the following immunities and privileges:

- a) The immediate granting of a visa which will permit them to enter Costa Rican territory and remain there. To this end, the Government shall order the appropriate measures.
- b) The immediate granting of a travel document that will enable them to appear before the Court, when this is necessary because of the lack of the same and the impossibility to obtain one in their country of origin or residence.
- c) Immunity from all administrative or judicial proceedings during their stay in the country. However, this immunity may be waived by the Court, when it considers it necessary.

The same immunities and privileges shall be granted to those persons who appear as victims or claimants in the cases.

The immunities and privileges referred to in this Article shall exist for the aforementioned persons from the moment that the Court has informed the Government of Costa Rica of their summons until the end of the case.

In addition, the aforementioned persons shall not be held responsible with regard to words spoken or written or acts done by them in the course of a case or proceedings before the Court.

CHAPTER X

EFFECT OF THE RESOLUTIONS

ARTICLE 27: The resolutions of the Court and, in the event, of its President shall have the same force as those handed down by the courts of Costa Rica, once the resolutions have been communicated to the pertinent administrative and judicial authorities of the country.

CHAPTER XI

THE CONTRIBUTION OF THE HOST COUNTRY TO THE  
FUNCTIONING OF THE COURT

ARTICLE 28: As a contribution of the host country to the functioning of the Court, the Government of the Republic of Costa Rica shall:

- a) Continue to make an annual grant of an amount not less than that allotted to the Court during its first year in operation, and which was included in Law of the General Budget of the Republic of Costa Rica for the year 1980.
- b) Make available to the Court an appropriate locale for its operation.

CHAPTER XII

FINAL ARTICLES

ARTICLE 29: This Agreement shall enter into force when it has been approved by the Legislative Assembly of the Republic of Costa Rica and ratified in accordance with the pertinent constitutional proceedings.

ARTICLE 30: Each of the contracting parties, by mutual agreement, may introduce amendments to this Agreement as well as sign protocols or agreements based on the present Agreement. They shall enter into force in accordance with the constitutional provisions in effect.

ARTICLE 31: This Agreement shall be in effect as long as Costa Rica is a State Party to the American Convention on Human Rights and seat of the Court. However, the immunities and privileges included herein shall continue in force during the period necessary for its transfer.

In faith whereof, the undersigned, duly authorized to do so, sign two original copies of this Agreement in the City of San José, Costa Rica, this tenth day of September one thousand nine hundred and eighty-one.

---

DR. BERND NIEHAUS QUESADA  
MINISTER OF FOREIGN AFFAIRS  
AND WORSHIP

---

LICDA. MERCEDES VALVERDE KOPPER  
ACTING MINISTER OF JUSTICE

---

DR. CARLOS ROBERTO REINA  
PRESIDENT

AMERICAN CONVENTION ON HUMAN RIGHTS  
"PACT OF SAN JOSE, COSTA RICA"

Signed at San José, November 22, 1969, at the  
Inter-American Specialized Conference on  
Human Rights

SIGNATORY  
COUNTRIES

DATE OF DEPOSIT OF THE INSTRUMENT  
OF RATIFICATION OR ADHERENCE

Barbados <sup>1</sup>	
Bolivia <sup>2</sup>	July 19, 1979 <sup>2</sup>
Chile <sup>3</sup>	
Colombia	July 31, 1973
Costa Rica*	April 8, 1970
Dominican Republic <sup>3,4</sup>	April 19, 1978
Ecuador <sup>3</sup>	December 28, 1977
El Salvador	June 23, 1978 <sup>3,5</sup>
Grenada <sup>6</sup>	July 18, 1978
Guatemala	May 25, 1978 <sup>5</sup>
Haiti <sup>2</sup>	September 27, 1977 <sup>2</sup>
Honduras	September 8, 1977 <sup>**</sup>
Jamaica <sup>7</sup>	August 7, 1978 <sup>3</sup>
Mexico	March 24, 1981 <sup>***</sup>
Nicaragua	September 25, 1979
Panama	June 22, 1978
Paraguay	
Peru <sup>8*</sup>	July 28, 1978
United States <sup>9</sup>	
Uruguay <sup>5</sup>	
Venezuela	August 9, 1977 <sup>3,5****</sup>

\* Costa Rica and Peru deposited, at the General Secretariat on July 2, 1980 and January 21, 1981, respectively, instruments recognizing the competence of the Inter-American Commission of Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

\*\* Honduras deposited, at the General Secretariat on September 9, 1981, the instrument recognizing the jurisdiction of the Inter-American Court of Human Rights, in accordance with Article 62 of the Convention.

\*\*\* Date of receipt of the instrument of accession. It contains two interpretative statements and one reservation. The necessary procedure will be taken in conformity with the Vienna Convention on the Law of Treaties.

\*\*\*\* Venezuela recognized the competence of the Inter-American Commission of Human Rights on August 9, 1977 and the jurisdiction of the Inter-American Court of Human Rights on June 24, 1981, in accordance with Articles 45 and 62 of the Convention.

(Cont.)

1. Signed at the General Secretariat on June 20, 1978.
2. Adhered.
3. With a declaration.
4. Signed at the General Secretariat on September 7, 1977.
5. With a reservation.
6. Signed at the General Secretariat on July 14, 1978.
7. Signed at the General Secretariat on September 16, 1977.
8. Signed at the General Secretariat on July 27, 1977.
9. Signed at the General Secretariat on June 1, 1977.

The original instrument is deposited with the General Secretariat, which is also the depository of the instruments of ratification.

The Convention entered into force on July 18, 1978, the date on which Grenada deposited its instrument of ratification, constituting the eleventh ratification required by the Convention. With respect to any state that ratifies or adheres thereafter, the Convention will enter into force on the date of the deposit of its instrument of ratification or adherence.

It was registered with the United Nations on August 27, 1979.

September 9, 1979