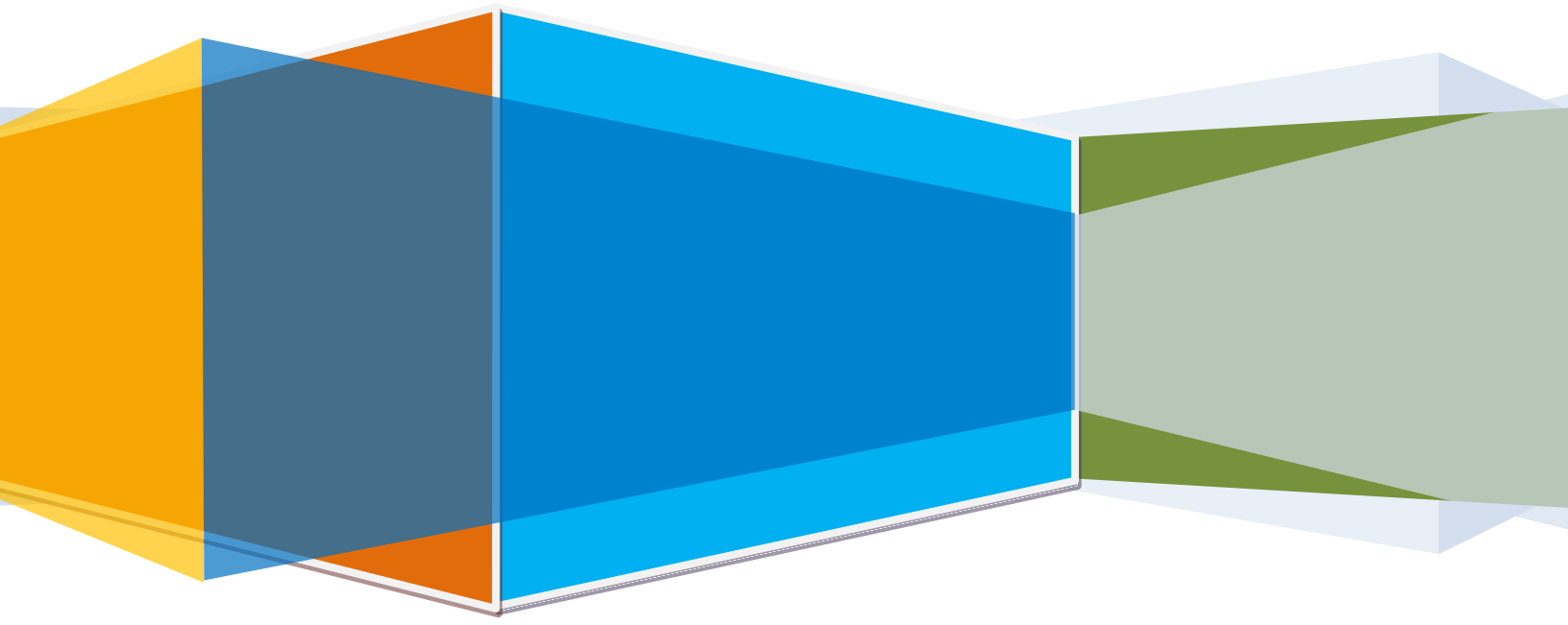
Annual Report 2014

Inter-American Court of Human Rights



ANNUAL REPORT 2014

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I. Foreword

I am honored to present, on behalf of my colleagues the judges of the Inter-American Court of Human Rights, the Annual Report of the Inter-American Court, which describes the Court's activities during 2014. The report covers the jurisdictional work of the Court and also the different activities carried out by the Inter-American Court to reach out to the people and institutions under its jurisdiction.

From the time of its formal establishment in 1979, the Inter-American Court has been accompanying the peoples of the Americas in the transformation of their social, political and institutional realities. Thirty-five years have passed in this process, during which the Court has decided more than 200 cases, delivered almost 300 judgments, issued more than 20 advisory opinions, and provided immediate protection to individuals and groups by means of the provisional measures it has ordered.

On this journey – at times difficult, but always full of hope – towards the effective defense and promotion of human rights, the Inter-American Court has endeavored to move gradually closer to the realities of each of the peoples of the Americas. Today, the Court possesses vast case law, in which it has addressed the most important issues and the most innovative developments in human rights with regard to each of the 20 States under its jurisdiction.

Thus, as can be seen in the respective section of this report, during 2014 the Court has continued to make significant progress in its case law. I would particularly like to underline Advisory Opinion OC-21/14 on "Rights and guarantees of children in the context of migration and/or in need of international protection", that establishes based on an interpretation of the relevant norms the obligation of the States regarding the rights of children in context of migration or need of international protection.

However, the Inter-American Court's work does not end when a judgment is delivered or an advisory opinion is issued. The effective protection of the human rights of the individual is realized through a dynamic dialogue with national institutions, particularly, those of a jurisdictional nature. Throughout its existence, the Inter-American Court has understood that it is necessary to reinforce local dynamics, based on the essentially complementary and subsidiary nature of the Court. Hence, protagonism in the protection of the rights and freedoms contained in the American Convention and in the decisions made by the Inter-American Court lies principally and necessarily with the vital role played by the national agents of justice.

In this spirit, it is the national agents of justice who provide real value to the decisions of the Inter-American Court, through this case law dialogue and an adequate control of conventionality, always within the framework of their competences. In an increasingly vigorous manner, a dynamic and complementary control of the treaty-based obligations of respect for and guarantee of human rights is being implemented, together with the domestic institutions.

Mindful of this and encouraged by it, the Inter-American Court has been decisively promoting dialogue with everyone and with every institution with the sole objective of making inter-American justice truly accessible. Thus, during 2014, more than a dozen agreements have been signed with

government agencies, academic establishments and, above all, other national and international courts. In addition, in 2014, a session was held in Paraguay, bringing Paraguayans closer to the jurisdictional activities of this Court. It should be underlined that, nine years ago, Paraguay was the first State to receive the Inter-American Court for one of its itinerant sessions and since then the Court has met in 17 States. Moreover, during 2014, important case law of the Court was translated into Portuguese, a historic and unprecedented event that opened up the work of this Court to the people of Brazil.

In the same spirit of dialogue, during 2014, the Inter-American Court visited its European counterpart in Strasbourg in order to share experiences and to reaffirm the joint work of the two institutions in favor of the human right of the peoples of these two continents. Moreover, 45 delegations of students, lawyers, and judges of 10 different nationalities visited the seat of the Inter-American Court in 2014.

It should also be emphasized that, since the Court initiated its work, it has received nearly 400 interns and visiting professionals of 40 nationalities, who have obtained working experience in the Court or have provided their technical and legal expertise, as well as acquiring valuable experience and knowledge. Also, every year the Court conducts training seminars in different States of the Americas.

The Inter-American Court's presence on social networks has increased considerably in order to connect with people in a more dynamic and innovative way, and to disseminate its case law more efficiently. Similarly, all public hearings are broadcast live and archived on the website. In addition, case files are computerized, while the new technologies are used during the processing of cases and to carry out the daily work of the Court.

After 35 years of operation, the Inter-American Court categorically reaffirms its commitment to the peoples of the Americas and faces the challenges of the coming years with firm determination.

Humberto Antonio Sierra Porto
President of the Inter-American Court of Human Rights

II. The Court: Structure and functions

A. Creation

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

B. Organization and composition

As stipulated in Articles 3 and 4 of its Statute, the seat of the Court is in San José, Costa Rica, and it is composed of seven judges, nationals of Member States of the Organization of American States (hereinafter "OAS").[1]

The judges are elected by the States Parties by secret ballot and by the vote of an absolute majority during the OAS General Assembly immediately before the expiry of the terms of the outgoing judges. Judges are elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights. In addition, they must possess the qualifications required for the exercise of the highest judicial functions, in accordance with the law of the State of which they are nationals or of the State that proposes them as candidates.[2]

Judges are elected for a term of six years and may be re-elected only once. Judges whose terms have expired shall continue to serve with regard to the "cases they have begun to hear and that are still pending judgment,"[3] and, to this end, they will not be replaced by the judges newly-elected by the OAS General Assembly. The President and the Vice President are elected by the judges themselves for a two-year period and can be re-elected.[4] During the 101st regular session held in San José (Costa Rica), the Court elected its new Board for the period 2014-2015, designating Judge Humberto Antonio Sierra Porto as President of the Court and Judge Roberto de Figueiredo Caldas as Vice President. At the same time, the Court re-elected Pablo Saavedra Alessandri as Secretary for the period 2014-2018.

1 American Convention on Human Rights, Article 52.

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

3 American Convention on Human Rights, Article 54(3). Cf. Statute of the Inter-American Court of Human Rights, Article 5.

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

In 2014, the composition of the Court was as follows (in order of precedence[5]):

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

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

C. States Parties

Of the 35 OAS Member States, the following 20 have accepted the compulsory jurisdiction of the Court: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname and Uruguay

D. Functions

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

On August 21, 2014, the Inter-American Court adopted Court Decision 1/14 "Clarification regarding the calculation of deadlines or time limits," in which it indicated the way in which the time frames established in the Court's Rules of Procedure are calculated.[6] This decision is available at the following link: http://www.corteidh.or.cr/docs/acuerdos/acuerdo_01_14_ing.pdf

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

6 This Decision establishes that: "[b]ased on Article 60 of the American Convention on Human Rights; Articles 25(1) and 25(3) of the Statute of the Inter-American Court of Human Rights (hereinafter "the Court"); and Articles 1(3), 2, and 28 of the Court's Rules of Procedure, this decision by the Full Court is intended to clarify the following points in relation to the calculation of deadlines or time limits contemplated in the Rules of Procedure or those established by the Court in its decisions: 1. Deadlines expressed in days in proceedings before the Court shall be counted in natural or calendar days. 2. Calendar days shall be understood to mean all days, including working days, non-working days and holidays. Non-working days shall be understood to mean Saturdays, Sundays and official holidays at the headquarters of the Court in Costa Rica. The pertinent information concerning official holidays in Costa Rica will be posted on the Court's web site http://www.corteidh.or.cr/. 3. Deadlines or time limits shall be calculated beginning on the first working day following notification. 4. Any deadline or time limit that expires on a non-working day shall be considered to have expired on the next working day. 5. All deadlines or time limits expire at 24:00 hours according to Costa Rican time. 6. Each year the Court shall establish a recess period during the year-end holidays. The presentation of briefs whose deadlines expire within this period, may be deferred until the first working day after the expiry of said deadlines. This does not apply to provisional measures. The pertinent information on the year-end recess will be available on the Court's web site.

1. Contentious function

This function enables the Court to determine, in cases submitted to its jurisdiction, whether a State has incurred international responsibility for the violation of any of the rights recognized in the American Convention or in other human rights treaties applicable to the inter-American system and, as appropriate, order the necessary measures to redress the consequences of the violation of such rights.

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

a) Contentious stage

This stage includes four phases:

A.1. The phase of the presentation of the Commission's brief submitting the case; the brief with pleadings, motions and evidence of the presumed victims, and the brief in answer to the two previous briefs of the defendant State; the briefs with observations on the preliminary objections filed by the State, when applicable; the brief with the final list of deponents, and the order convening a hearing;

A.2. The oral phase or public hearing;

A.3. The phase of the final written arguments of the parties and observations of the Commission, and

A.4. The phase of the deliberation and delivery of judgment.

A.1. The phase of the presentation of the Commission's brief submitting the case; the brief of the presumed victims with pleadings, motions and evidence, and the brief of the defendant State in answer to the two previous briefs; the briefs with observations on the preliminary objections filed by the State, when applicable; the brief with the final list of deponents, and the order convening a hearing

The contentious stage begins with the submission of the case to the Court by the Commission. To ensure that the Court and the parties have all the information required for the appropriate processing of the proceedings, the Court's Rules of Procedure require that the brief presenting the case include, *inter alia*:[7]

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

Once the case has been presented, the President makes a preliminary examination to verify that the essential requirements for its presentation have been fulfilled. If this is so, the Secretariat notifies the case to the defendant State and to the presumed victim, his or her representatives or the inter-American defender, if appropriate.[8]

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

8 Ibid., Article 38.

Following notification of the case, the presumed victim or his or her representatives have two months as of the date of notification of the presentation of the case and its annexes to submit their autonomous brief with pleadings, motions and evidence. This brief must include, *inter alia:*[9]

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

When the brief with pleadings, arguments and evidence has been notified, the State has two months from the time it receives this brief and its attachments to answer the briefs presented by the Commission and by the representatives of the presumed victims, indicating, *inter alia:*[10]

- Whether it accepts the facts and the claims or whether it contests them;
- The evidence offered, in proper order, indicating the facts and the arguments to which it refers, and
- The legal arguments, the observations on the reparations and costs requested, and the pertinent conclusions.

This answer is forwarded to the Commission and to the representatives of the presumed victim. If the State files preliminary objections, the Commission and the presumed victims or their representatives can submit their respective observations within 30 days of receiving notice of them.[11] If the State makes a partial or total acknowledgement of responsibility, the Commission and the representatives of the presumed victims are granted time to forward any observations they consider pertinent.

Following the reception of the brief submitting the case, the brief with pleadings, motions and evidence, and the State's answering brief, and before the oral proceedings start, the Commission, the presumed victims or their representatives, and the defendant State may ask the President to take other measures in the context of the written proceedings. If the President considers this pertinent, he will establish the time limits for presentation of the respective documents.[12]

Once the Court has received the final lists of deponents and expert witnesses, these are forwarded to the parties so that they may present their observations and, if appropriate, their objections to the said deponents.[13] The President of the Court then issues an "order convening a public hearing" in which, based on the observations of the parties, and making an analysis of them and of the information in the case file, he decides which of the victims, witnesses and expert witnesses will provide their testimony at the public hearing of the case, and which of them will testify by affidavit, as well as the purpose of each deponent's testimony. In this Order, the President establishes a specific day and time to hold the said hearing and summons the parties and the Commission to take part in it.[14]

A.2. Oral phase or public hearing

During the hearing, the Commission explains the grounds for the report under Article 50 of the Convention and for the submission of the case to the Court, as well as any other matter that it considers relevant for deciding the case.[15] The judges of the Court then hear the presumed victims, witnesses and expert witnesses convened by the said order, who are examined by the parties and, if appropriate, by the judges. The Commission may examine certain expert witnesses in exceptional circumstances in

9 Ibid., Article 40.

10 Rules of Procedure of the Inter-American Court of Human Rights, Article 41.

11 Ibid., Article 42(4).

12 Ibid., Article 43.

13 Ibid., Article 47.

14 Ibid., Article 50.

15 Ibid., Article 51.

accordance with the provisions of Article 52(3) of the Court's Rules of Procedure. After this, the President gives the floor to the presumed victims or their representatives and to the defendant State so that they may present their arguments on the merits of the case. Subsequently, the President grants the presumed victims or their representatives and the State, respectively, the opportunity for a reply and a rejoinder. Once the arguments have been submitted, the Commission presents its final observations and then the judges ask their concluding questions.[16] This hearing usually lasts a day and a half and is transmitted online via the Court's website.

A.3. Phase of final written arguments of the parties and observations of the Commission

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

A.4. Phase of deliberation and delivery of judgment

When the final written arguments of the parties have been received, the Court may request additional probative measures (Article 58 of the Rules of Procedure).

It should be noted that, as indicated in Article 58 of its Rules of Procedure, the Court may, "at any stage of the proceedings," request probative measures, without prejudice to the arguments and documentation submitted by the parties. Thus it may: 1. Obtain, on its own motion, any evidence it considers helpful and necessary; 2. Require the submission of any evidence or any explanation or statement that, in the Court's opinion, may be useful; 3. Require any entity, office, organ, or authority of its choice to obtain information, express an opinion, or deliver a report or pronouncement on any given point; 4. Commission one or more of its members to take steps in the advancement of the proceedings, including hearings at the seat of the Court or elsewhere.

In January 2014, a probative measure was executed in the Republic of Peru in order to conduct a "re-enactment of the events" in Lima in the context of the case of *Cruz Sánchez et al. v. Peru.* This measure was ordered as an exceptional measure in this case, at the State's invitation, with the participation of the other parties to the proceedings,[17] and representatives of the Inter-American Commission. The Court's delegation was composed of Judges Humberto Antonio Sierra Porto, President of the Court, Roberto F. Caldas, Vice President, and Eduardo Ferrer Mac-Gregor Poisot, as well as of the Secretary, Pablo Saavedra Alessandri, and a Secretariat lawyer.

During this phase, the judge rapporteur of each case, with the support of the Court's Secretariat and based on the arguments and evidence provided by the parties, presents a draft judgment on the case in

16 Ibid., Article 51.

17 In its brief of August 17, 2012, answering the submission of the case and with observations on the brief with motions, arguments and evidence, the State proposed as a probative measure, inter alia, a procedure of "re-enactment of the events," so that the judges of the Inter-American Court could: (i) assess the extreme situation of the hostages," as well as (ii) the context in which "military operation 'Nipón 96' was planned and executed," and (iii) verify "that it had been conducted respecting the standards of international humanitarian law and international human rights law." An order of November 6, 2013, by the acting President at the time ordered a visit to the Republic of Peru in order to execute, in application of Article 58(a) and 58(d) of the Rules of Procedure, the said procedure of "re-enactment of the events" in Lima on January 24, 2014, because it was useful and necessary for the satisfactory elucidation and verification of the facts in dispute, as well as for the proper assessment of certain relevant circumstances of the case. The measure began with a visit to the place where the residence of the Ambassador of Japan was located in San Isidro, Lima, and nearby places. The delegations then went to the Las Palmas Military Base, in the district of Chorrillos, Lima, where a "replica of the residence of the Ambassador of Japan" had been constructed, following a visit to the place where the Tactical Operations Center (COT) functioned and where the Military Hospital and the Hospital of the National Police of Peru are located. Subsequently, the delegations received an explanation about the planning and execution of the operation, while observing the scale model of the residence and examples of the weapons used by the members of the Túpac Amaru Revolutionary Movement (MRTA) and by the armed forces of the Peruvian State during the operation to rescue the hostages. The delegations also entered and visited the first and second floor of the replica. In the afternoon, a re-enactment of the events that took place during the operation was conducted. The delegations of the representatives and of the Commission asked the questions that they considered pertinent during the re-enactment.

question to the full Court for its consideration. The judges deliberate on this draft judgment for several days during one of the sessions; although, in complex cases, their deliberations may be suspended and taken up again at a future session. During these deliberations, the draft is discussed and approved until the operative paragraphs of the judgment are reached; these are then voted on by the Court's judges. In some cases, the judges submit their dissenting or concurring opinions on the judgments.

The judgments handed down by the Court are final and non-appealable.[18] Nevertheless, if any of the parties to the proceedings requests clarification of the meaning or scope of the judgment in question, the Court will elucidate it in an interpretative judgment. This interpretation is made at the request of any of the parties, provided the request is submitted within 90 days of notification of the judgment.[19] In addition, the Court may, on its own initiative, or at the request of one of the parties submitted within one month of notification of the judgment, rectify any obvious clerical errors or errors in calculation. The Commission, the victims or their representatives, the defendant State, and, if applicable, the petitioning State shall be notified if an error is rectified.[20]

b) Phase of monitoring compliance with judgments

The Inter-American Court is responsible for monitoring compliance with its judgments. The authority to monitor its judgments is inherent in the exercise of its jurisdictional powers, and the legal grounds can be found in Articles 33, 62(1), 62(3) and 65 of the Convention, as well as in Article 30 of the Court's Statute. Furthermore, the procedure is regulated in Article 69 of the Court's Rules of Procedure and its purpose is to ensure that the reparations ordered by the Court in each specific case are complied with and implemented.

Monitoring compliance with the Court's judgments implies, first, that it must periodically request information from the States on the measures taken to comply with the said judgments, and then obtain the observations of the Commission and of the victims or their representatives. When the Court has received this information, it can assess whether the State has complied with the measures ordered, provide guidance for the actions taken by the State to that end and, if appropriate, convene a monitoring hearing. In the context of such hearings, the Court does not merely take note of the information presented by the parties and the Commission, but also endeavors to establish collaboration between the parties suggesting options to resolve difficulties, encourages compliance with the judgment, calls attention to a lack of willingness to comply, and promotes the establishment of timetables for compliance by all those involved.

It should be noted that the Court began to hold hearings on monitoring compliance with judgments in 2007. Since then, favorable results have been achieved, with significant progress being made in fulfillment of the reparations ordered by the Court. This has also been noted by the OAS General Assembly in its resolution on "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights," in which the General Assembly recognizes "that the private hearings held on the monitoring of compliance with the Court's judgments have been important and constructive and have yielded positive results."[21]

Moreover, in the same spirit of implementing procedures to improve compliance with its decisions, the Court has adopted the practice of holding joint hearings to monitor compliance with the judgments in several cases against a same State, when it has ordered similar reparations, or in cases in which it has verified that structural difficulties or problems exist that could become obstacles to the implementation of specific measures of reparation. This allows the Court to deal with such problems transversally in different cases, and to obtain a general overview of the progress made, and any impediments to such progress in a State. This practice also has a direct impact on the principle of procedural economy.

18 American Convention on Human Rights, Article 67.

19 American Convention on Human Rights, Article 67.

20 Rules of Procedure of the Inter-American Court of Human Rights, Article 76.

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

2. Provisional measures

The Court orders provisional measures of protection in order to guarantee the rights of specific individuals or groups of individuals who are in a situation of extreme gravity and urgency, and to prevent them from suffering irreparable harm, mainly of the rights to life and to personal integrity.[22] The three requirements – extreme gravity, urgency and the risk of irreparable harm – have to be justified satisfactorily for the Court to decide to grant these measures which must be implemented by the State concerned.

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

These measures are monitored by the presentation of reports by the State, on which the beneficiaries or their representatives may make any comments they deem pertinent. The Commission also presents observations on the State's reports and on the observations made by the beneficiaries.[23] Then, based on the reports forwarded by the States and the corresponding observations, the Inter-American Court evaluates the status of the implementation of the measures, and whether it is pertinent to summon those involved to a hearing[24] during which the parties describe the status of the measures adopted, or to issue orders relating to compliance with the measures decided.

The activity of monitoring implementation of the provisional measures ordered by the Court, contributes to enhancing the effectiveness of the Court's decisions and allows it to receive from the parties more specific information on the status of compliance with each measure decided in its judgments and orders; encourages the States to take concrete measures to execute the said measures, and even persuades the parties to reach agreements in order to ensure improved compliance with the measures ordered.

3. Advisory function

This function allows the Court to respond to consultations by OAS Member States or the organs of the Organization on the interpretation of the American Convention or other treaties for the protection of human rights in the States of the Americas.[25] Furthermore, at the request of an OAS Member State, the Court may issue its opinion on the compatibility of domestic norms with the instruments of the inter-American system.[26]

To date, the Court has issued 21 advisory opinions, which have given it the opportunity to rule on essential issues related to the interpretation of the American Convention and other treaties relating to the protection of human rights. All the advisory opinions can be found on the Court's website at the following link: http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=en

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

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

24 During a hearing on provisional measures, the representatives of the beneficiaries and the Inter-American Commission have the opportunity to prove, when appropriate, the continued existence of situations that led to the adoption of provisional measures. Meanwhile, the State must present information on the measures adopted in order to overcome these situations of extreme gravity and urgency and, if possible, prove that these circumstances no longer exist.

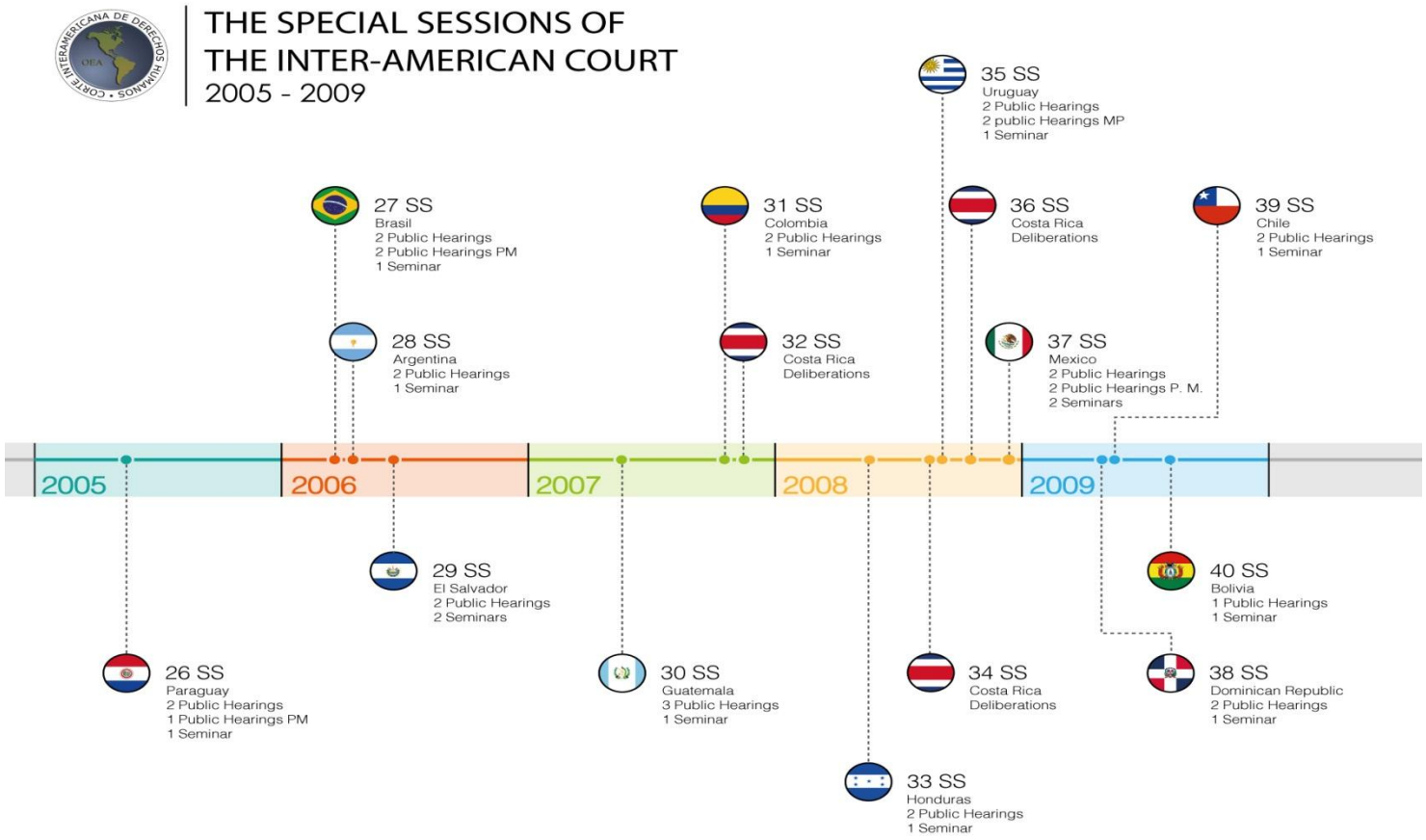
25 American Convention on Human Rights, Article 64(1).

26 Ibid., Article 64(2).

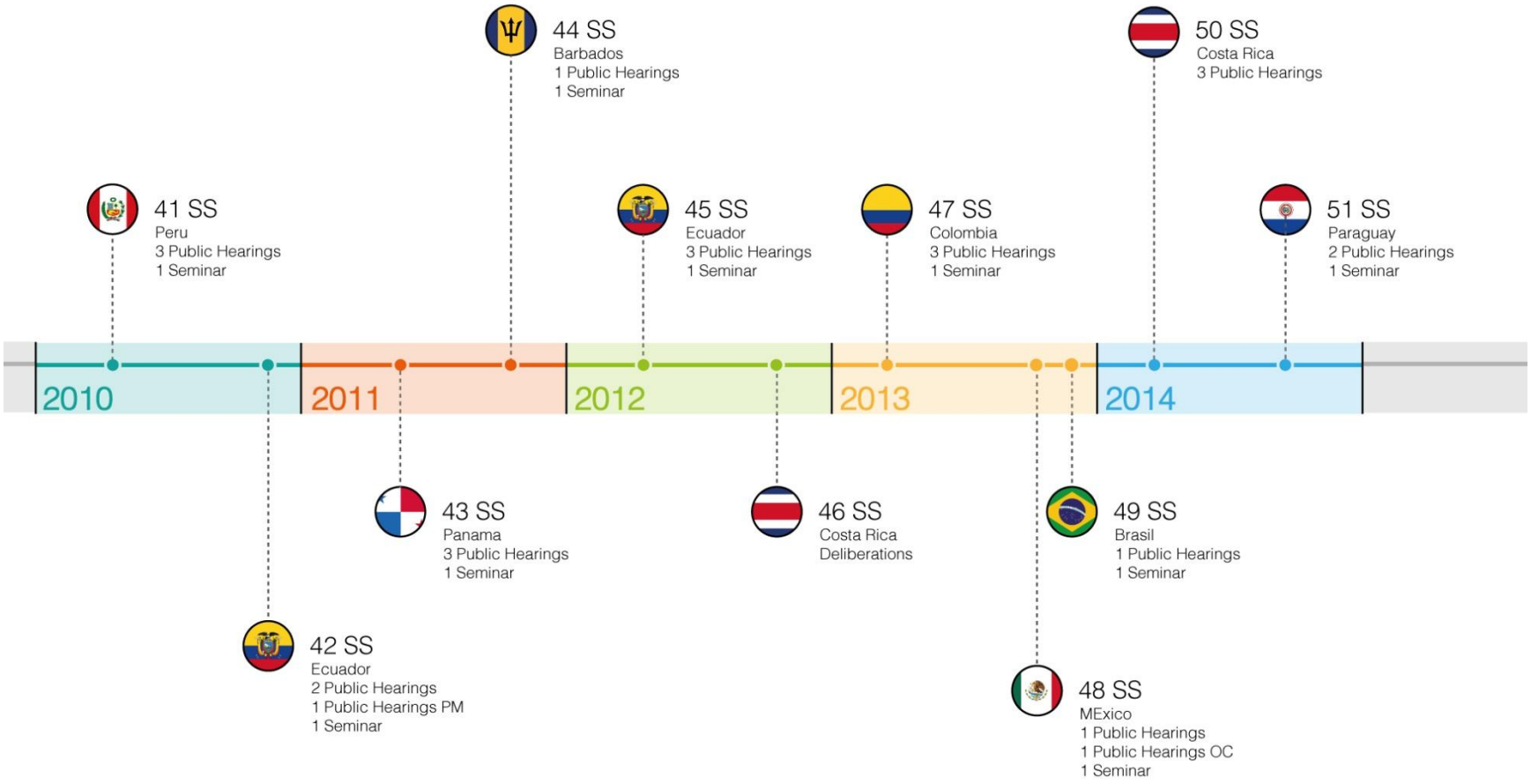
E. The special sessions of the Inter-American Court

Starting in 2005, the Inter-American Court has held special sessions outside its seat in San José Costa Rica. In order to hold such sessions, the Court has travelled to Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, México, Panama, Paraguay, Peru, Dominican Republic, and Uruguay..

The Court is able to combine two objectives with this initiative: on the one hand, to increase its activities and, on the other, to disseminate the important work of the Inter-American Court in particular, and the inter-American system of human right in general.



THE SPECIAL SESSIONS OF THE INTER-AMERICAN COURT 2010 - 2014



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III. The Court in 2014

The work of the Court during 2014 is described below, divided into the following sections:

1) Sessions held in 2014
2) Contentious function
3) Provisional measures
4) Advisory function
5) Development of case law

A. Sessions held in 2014

1. Introduction

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

- Holding hearings and adopting judgments in contentious cases
- Holding hearings and issuing orders on monitoring compliance with judgment
- Holding hearings and issuing orders on provisional measures
- Taking different measures in matters pending before the Court, and dealing with administrative matters.

2. Summary of the sessions

During 2014, the Court held five regular sessions and two special sessions, held in San José and Asunción. Details of these sessions appear below:

- **102nd regular session**

  The Court held its 102nd regular session in San José, Costa Rica, from January 27 to February 7, 2014. During the session, the Court held two public hearings on contentious cases[27] and two joint private hearings on monitoring compliance with judgment and provisional measures.[28] The Court also delivered one judgment on merits[29] and two orders on provisional measures,[30] and began examining a draft judgment.

- **Fiftieth special session**

  The Court held its fiftieth special session in San José, Costa Rica, from March 31 to April 4, 2014. During the session, the Court held three public hearings on contentious cases,[31] began examining a draft

27 Case of Cruz Sánchez et al. v. Peru, and Case of the Landaeta Mejías Brothers et al. v. Venezuela.

28 Case of García Prieto et al. v. El Salvador, and Case of the La Rochela Massacre v. Colombia.

29 Case of Liakat Ali Alibux v. Suriname. Preliminary objections, merits, reparations and costs. Judgment of January 30, 2014. Series C No. 276.

30 Case of Wong Ho Wing with regard to Peru. Order of the Inter-American Court of Human Rights of January 29, 2014, and Matter of the Socio-educational Unit with regard to Brazil. Order of the Inter-American Court of Human Rights of January 29, 2014

31 Case of Rochac Hernández et al. v. El Salvador; Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama, and Case of Espinoza Gonzáles v. Peru.

judgment,[32] and issued two orders on provisional measures[33] and one on monitoring compliance with judgment.[34]

- **103rd regular session**

The Court held its 103rd regular session in San José, Costa Rica, from May 12 to 30, 2014. During the session it held four public hearings on contentious cases[35] and three private hearings on monitoring compliance with judgment.[36] The Court also delivered three judgments,[37] issued four orders on provisional measures,[38] and began examining an advisory opinion.[39]

In addition, during this session the Court received delegations from the Universidade Federal da Paraíba, Brazil, the Universidad Autónoma del Estado de Morelos, Mexico, and the Universidad de La Salle Bajío, León, Guanajuato, Mexico; and signed a cooperation agreement with the Ombudsman of the Republic of Panama.

- **104th regular session**

The Court held its 104th regular session in San José, Costa Rica, from August 18 to 29, 2014, during which it delivered three judgments[40] and one advisory opinion.[41]

In addition, during the session the Court received the visit of the President of the Republic of Costa Rica, Luis Guillermo Solís, accompanied by the Costa Rican Minister for Foreign Affairs, Manuel González Sanz. The purpose of the visit was to discuss current and future challenges for the Inter-American Court of Human Rights.

32 Case of Veliz Franco et al. v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of May 19, 2014. Series C No. 277

33 Matter of two girl children of the Taromenane indigenous people in voluntary isolation with regard to Ecuador. Order of the Inter-American Court of Human Rights of March 31, 2014, and Case of Artavia Murillo et al. ("In vitro fertilization") v. Costa Rica. Order of the Inter-American Court of Human Rights of March 31, 2014.

34 Case of the Miguel Castro Castro Prison v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 31, 2014.

35 Case of the Garífuna Community of Triunfo de la Cruz and its members v. Honduras; Case of Zulema Tarazona Arrieta et al. v. Peru; Case of Arguelles et al. v. Argentina, and Case of Granier et al. (Radio Caracas Televisión) v. Venezuela.

36 (i) Joint monitoring of compliance with the obligation to investigate, prosecute and punish, as appropriate those responsible for the facts in relation to the Cases of Blake, "Street Children" (Villagrán Morales), Bámaca Velásquez, Mack Chang, Maritza Urrutia, Plan de Sánchez Massacre, Molina Thiessen, Carpio Nicolle et al., Tiu Tojín, the Los Dos Erres Massacre, and Chitay Nech, all of them with regard to Guatemala; (ii) Case of Gomes Lund et al. ("Guerrilla de Araguaia") v. Brazil, and (iii) Joint monitoring of compliance with the judgments in the Cases of the Yakye Axa Indigenous Community, the Sawhoyamaxa Indigenous Community, and the Xámok Kásek Indigenous Community, all of them with regard to Paraguay

37 Case of Véliz Franco et al. v. Guatemala; Case of Norín Catrimán et al. (Lonkos, leaders and activist of the Mapuche indigenous people) v. Chile, and Case of Brewer Carías v. Venezuela.

38 Matter of Danilo Rueda with regard to Colombia; Matter of the Curado Prison Complex with regard to Brazil; Case of Mack Chang et al. with regard to Guatemala, and Case of Galindo Cárdenas et al. with regard to Peru

39 Rights and guarantees of children in the context of migration and/or need from international protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21

40 Case of expelled Dominicans and Haitians v. Dominican Republic. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2014. Series C No. 282; Case of the Landaeta Mejías Brothers et al. v. Venezuela. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2014. Series C No. 281, and Case of the Human Rights Defender et al. v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2014. Series C No. 283.

41 Rights and guarantees of children in the context of migration and/or need from international protection. Advisory Opinion OC-21/14 de August 19, 2014. Series A No. 21

- **Fifty-first special session**

The Court held its fifty-first special session in Asuncion, Republic of Paraguay from September 1 to 4, 2014. During this session, the Court held two public hearings on contentious cases.[42]

The session was inaugurated by a ceremony with the participation of the Vice President of the Republic of Paraguay, Juan Afara, the President of the Supreme Court of Justice of Paraguay, Raúl Torres Kirmser, the Minister for Foreign Affairs of the Republic of Paraguay, Eladio Loizaga, and Judge Humberto Antonio Sierra Porto, President of the Inter-American Court.

During the session, on September 2, 2014, the President of the Republic of Paraguay, Horacio Cartes, received the President of the Inter-American Court, Judge Humberto Sierra Porto, and the Vice President, Judge Roberto F. Caldas. In addition, a delegation composed of Judges Humberto Antonio Sierra Porto, President; Roberto F. Caldas, Vice President; Eduardo Vio Grossi and Eduardo Ferrer Mac-Gregor Poisot, together with Pablo Saavedra Alessandri and Emilia Segares Rodríguez, Secretary and Deputy Secretary of the Court, respectively, visited the President of the Congress of the Republic of Paraguay, Blas Llano; the Minister for Foreign Affairs of the Republic of Paraguay, Eladio Loizaga; the Prosecutor General of the Republic of Paraguay, Javier Díaz Verón; the Attorney General of the Republic, and the Mercosur Permanent Review Tribunal.

In keeping with the spirit of inter-court dialogue that inspires the Inter-American Court, members of the Court met with the President and the Vice President of the Supreme Court of Justice of Paraguay, Raúl Torres Kirmser and Alicia Pucheta, respectively, as well as with several justices of that court, in order to establish ties between the two institutions for the defense and promotion of human rights. The Inter-American Court also visited the "Terror Archives" in the Museum of Justice, Center of Documentation and Archives for the Defense of Human Rights, of the Supreme Court of Justice of Paraguay.

The Court also organized two seminars. The first, entitled "Inter-American justice and jurisprudential dialogue," was held in the auditorium of the Supreme Court of Justice of Paraguay for the general public, with more than 500 participants, including judges, human rights defenders, and students. The second, entitled "The role of the Inter-American Court of Human Rights" was held in the Ministry of Foreign Affairs for prosecutors and students of the Paraguayan Diplomatic Academy.

The program and the video of this seminar (in Spanish only) can be found at the following link: http://vimeo.com/album/2565106

- **105th regular session**

The Court held its 105th regular session in San José, Costa Rica, from October 13 to 17, 2014. During this session the Court held a public hearing on a contentious case[43] and delivered three judgments.[44]

- **106th regular session**

The Court held its 106th regular session in San José, Costa Rica, from November 10 to 21, 2014. During this session, it held three private hearings on monitoring compliance with judgments[45] and a joint public hearing on two matters in which provisional measures had been ordered.[46] The Court also handed down three judgments on preliminary objections, merits, reparations and costs;[47] two interpretative judgments,[48] and two orders on monitoring compliance with judgment.[49]

42 Case of the Garífuna Community of Punta Piedra and its members v. Honduras, and Case of Wong Ho Wing v. Peru.

43 Case of Canales Huapaya et al. v. Peru.

44 Case of Rochac Hernández et al. v. El Salvador; Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama, and Case of Tarazona Arrieta et al. v. Peru.

45 Case of Ibsen Peña and Ibsen Cárdenas v. Bolivia; Case of Ticona Estrada v. Bolivia, and Case of the Ituango Massacres v. Colombia

46 Joint public hearing on the matters of Alvarado Reyes et al. and Castro Rodríguez with regard to Mexico.

47 Case of Rodríguez Vera et al. v. Colombia; Case of Espinoza Gonzáles et al. v. Peru, and Case of Argüelles et al. v. Argentina.

48 Case of J. v. Peru, and Case of Osorio Rivera and family members v. Peru.

B. Contentious function

1. Cases submitted to the Court

During 2014, nineteen new contentious cases were submitted to the Court's consideration:

- **Luis Antonio Galindo Cárdenas and family members *v.* Peru**

On January 19, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed illegal detention of Luis Antonio Galindo Cárdenas on October 16, 1994, when he held the post of provisional member of the Superior Court of Justice of Huánuco. The detention was executed in application of Decree Law No. 25475 on terrorism. Luis Antonio Galindo was confined and subjected to psychological torture at the headquarters of the Miltary Political Command Unit of the Huallaga Front of the city of Huánuco for 31 days because he had been falsely and publicly accused by President Alberto Fujimori of having taken advantage of Decree Law No. 25499, known as the "Repentance Law." It was also alleged that the State had not complied with its obligation to investigate the complaints and to punish those responsible.

- **Kaliña and Lokono Peoples *v.* Suriname**

On January 26, 2014, the Inter-American Commission submitted this case to the Court. It refers to a supposed series of violations of the rights of the members of eight communities of the Kaliña and Lokono indigenous peoples of the Bajo Marowijne River in Suriname; specifically, owing to the subsistence of a normative framework that presumably prevents the recognition of legal personality to indigenous peoples, a situation that allegedly continues to prevent the Kaliña and Lokono peoples from receiving this recognition. In addition, it is alleged that the State has failed to establish legal grounds that would permit recognition of the right to collective ownership of the lands, territories and natural resources of the Kaliña and Lokono indigenous peoples. This presumed lack of recognition has allegedly been accompanied by the issue of individual title deeds to non-indigenous persons; the granting of concessions and licenses for mining operations on part of their territory, and the establishment and permanence of three nature reserves on part of their ancestral territory. The alleged violations of the right to collective property arising from this situation supposedly persist to date. Furthermore, neither the granting of mining concessions and licenses and their continued validity, nor the establishment and permanence of nature reserves were subject to any consultation process to obtain the prior, free and informed consent of the Kaliña and Lokono peoples. All these facts allegedly took place in a context of lack of judicial protection and defense because, supposedly, in Suriname there are no effective remedies that the indigenous peoples can use to claim their rights.

- **Ruano Torres and family *v.* El Salvador**

On February 13, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed deprivation of liberty of Mr. Ruano at his home in the early morning hours of October 17, 2000, when he was supposedly mistreated in front of his family. The Commission concluded that the physical and verbal ill-treatment had constituted torture. Subsequently, Mr. Ruano Torres was allegedly subjected to criminal prosecution and was convicted in violation of the basic guarantees of due process; in particular, in the context of serious doubts as to whether he was really the person alleged to have committed the offense and without any measures having been taken to verify his identity. In addition, supposedly the only two pieces of evidence on which the conviction was based had been obtained by means of a series of irregularities. Based on the foregoing, the Commission concluded that the State had violated the right to presumption of innocence. The Commission also considered that the supposed deficient actions of the public defender had constituted a violation of the right of defense. In the Commission's opinion, the deprivation of liberty while serving a sentence issued in violation of the said guarantees had been, and continues to be, arbitrary. The Commission

49 Joint order on monitoring compliance with five measures of reparation in the cases of Fernández Ortega et al. and Rosendo Cantú et al., both against Mexico, and Order on monitoring compliance with the judgment in the Case of Salvador Chiriboga v. Ecuador.

also considered that the State had not provided effective remedies to investigate the alleged torture suffered, or to protect the presumed victim from the alleged violations of due process, or to review his deprivation of liberty.

- **López Lone *et al. v.* Honduras**

On March 17, 2014, the Inter-American Commission submitted this case to the Court. It refers to the disciplinary proceedings to which the judges Adán Guillermo López Lone, Luis Alonso Chévez de la Rocha and Ramón Enrique Barrios Maldonado, and also the magistrate Tirza del Carmen Flores Lanza, were subject in the context of the June 2009 coup d'état in Honduras. The presumed victims formed part of the Association of Judges for Democracy, which issued several public communiqués calling the events related to the destitution of former President Zelaya a coup d'état, contrary to the official version asserted by the Supreme Court of Justice, which maintained that it was a constitutional succession. The Commission concluded that the disciplinary proceedings had been instituted in order to sanction the acts or statements of the victims against the coup d'état, and were held disregarding the procedure established in the Constitution, which stipulated that the Supreme Court of Justice was the competent authority to decide on the dismissal of the judges "on the proposal of the Judicial Career Council." According to the Commission, to the contrary, the dismissals had been executed by decisions of the Supreme Court of Justice, and the Judicial Career Council had acted subsequently as a court of appeal, despite being an organ attached to the Supreme Court. The Commission alleged that the proceeding had been plagued with numerous irregularities that affected the victims' guarantee of due process and therefore concluded that the State had acted in violation of the rights of the presumed victims to judicial guarantees, the principle of legality, freedom of expression, freedom of association, political rights, judicial protection, and right of assembly.

- **TGGL and family *v.* Ecuador**

On March 18, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed international responsibility of the State for the violation of the right to a decent life and personal integrity of TGGL, as a result of contracting HIV following a blood transfusion on June 22, 1998, when she was three years old. The blood used for the transfusion came from the Blood Bank of the Red Cross of Azuay, without the State supposedly having complied adequately with the obligation to guarantee rights; specifically, with its role of supervising and inspecting private entities that provide health care services. The Commission also concluded that the State's failure to respond adequately to the situation, particularly by omitting to provide the specialized medical care required by the victim, continued to affect the exercise of her rights to date. The Commission considered that the investigation and the domestic criminal proceedings that culminated in a declaration of the statute of limitations had not complied with the basic standards of due diligence to offer an effective remedy to the child TGGL and her family. The Commission also considered that the whole case revealed non-compliance with the State's obligation to provide special protection to TGGL because she was a child.

- **Velásquez Paiz *et al. v.* Guatemala**

On March 4, 2014, the Inter-American Commission submitted this case to the Court. It refers to the alleged international responsibility of Guatemala for failing to comply with the obligation to protect the life and personal integrity of Claudina Isabel Velásquez Paiz. It is alleged that, when Claudina Velásquez failed to arrive home, her parents went to file a report of her disappearance, but were unable to do so, because they were told that it was necessary to wait 24 hours before reporting the fact. According to the Commission, the State had not adopted immediate and exhaustive measures to search for and to protect Claudina as soon as it became aware of her disappearance. And this was despite the fact that the State authorities were aware of the existence of a context of violence against women that placed the victim in an evident situation of imminent danger. The lifeless body of Claudina Velásquez was found the following day, August 13, 2005, with injuries presumably caused by acts of extreme violence, including rape. Furthermore, the State of Guatemala had allegedly incurred international responsible because it had not conducted a genuine investigation into Claudine's disappearance, abuse and death. The Commission found that, from the start, the

investigation was plagued with numerous flaws, such as deficiencies in the handling and the analysis of the evidence collected, errors in the handling and preservation of the scene of the crime, and in the expert appraisals, irregularities in the autopsy report, the lack of a comprehensive examination of different parts of the victim's body to verify possible rape, irregularities in collecting the victim's fingerprints, and failure to take the statements of relevant witnesses. According to the Commission, there were also delays that could be attributed to the State, revealed, in particular, by continuing changes in the prosecutors responsible for the case that interrupted the investigation and, owing to which, certain measures were not taken in time or were not considered by the new prosecutors. The Commission also affirmed that, the proceedings were marked by the presence of discriminatory stereotypes that had a significant impact on the lack of diligence in the investigation.

- **Maldonado Vargas *et al. v.* Chile**

On April 12, 2014, the Inter-American Commission submitted this case to the Court. It refers to the supposed denial of justice to the detriment of twelve former members of the Chilean Air Force: Omar Humberto Maldonado Vargas, Álvaro Yanez del Villar, Mario Antonio Cornejo Barahona, Belamino Constanzo Merino, Manuel Osvaldo López Ovanedel, Ernesto Augusto Galaz Guzmán, Mario González Rifo, Jaime Donoso Parra, Alberto Salustio Bustamante Rojas, Gustavo Raúl Lastra Saavedra, Víctor Hugo Adriazola Meza and Ivar Onoldo Rojas Ravanal, owing to the presumed failure to investigate *ex officio* and diligently the alleged torture suffered by the victims under the military dictatorship. The Commission concluded that, by rejecting the appeals for review and for reconsideration of judgment filed on September 10, 2001, and September 7, 2002, respectively, the Chilean State failed to comply with its obligation to provide an effective remedy to the victims to nullify the criminal proceedings that took into account evidence obtained under torture. Thus, allegedly, the victims had not had any mechanism to assert the rule of exclusion of evidence as a fundamental corollary of the absolute prohibition of torture.

The Commission considered that the victims were tried and declared guilty of the crime of treason, failure to perform military duties, unauthorized knowledge and dissemination of secret documents, and conspiracy to commit sedition, by two courts martial – military courts responsible for trying certain crimes in times of war – in the context of military criminal proceedings that were divided into two parts. It is alleged that these proceedings had taken place following the military coup of September 11, 1973, as a reprisal for the presumed victims' opposition to the coup d'état.

- **Ana Teresa Yarce *et al. v.* Colombia**

On June 3, 2014, the Inter-American Commission submitted this case to the Court. It refers to the supposed international responsibility of the State of Colombia for a presumed series of human rights violations against five human rights defenders and their families starting in 2002, in the place known as Comuna 13, in Medellin. This alleged series of events took place in the context of the armed conflict in the area that was known to the Colombian State and characterized, for many years, by confrontations between the illegal armed groups and the army. This context had been exacerbated in Comuna 13 owing to the military operations executed by the State in 2002 and the supposed escalation of the presence of paramilitary groups following these operations. Thus, Myriam Eugenia Rúa Figueroa and Luz Dary Ospina had been threatened, harassed, and undergone the search and occupation of their homes and, consequently, had been obliged to move. Meanwhile, it is alleged that Mery Naranjo, María del Socorro Mosquera and Ana Teresa Yarce had been arbitrarily deprived of their liberty, and following a supposed series of reports regarding the actions of paramilitary groups in connivance with the Armed Forces in the area, Ana Teresa Yarce was murdered on October 6, 2004. Consequently, Mery Naranjo and María del Socorro Mosquera also had to move. The Commission considered that this egregious series of events had had a profound impact on the families of the five human rights defenders that especially affected the children. It is alleged that all these events remain unpunished. The Commission also considered that all these events occurred owing to non-compliance with the State's heightened obligation of protection and response, which was reinforced by the situation of special danger of the women human rights defenders owing to the historical discrimination they had suffered and the characteristics of their work, as well as to the increase of this danger in areas controlled by the participants in the armed conflict.

- **Valdemir Quispealaya Vilcapoma *v.* Peru**

On August 5, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed violation of the personal integrity of Valdemir Quispealaya Vilcapoma that allegedly occurred as a result of a blow that Mr. Quispealaya received on January 23, 2001, from a non-commissioned officer of the Peruvian Army during shooting practice, while he was performing military service. It is alleged that the victim's forehead and eye had been hit with the butt of a firearm. Months later, Mr. Quispealaya was interned in the Central Military Hospital in Lima where, despite surgery, he lost the sight of his right eye. These events respond to a pattern of torture and cruel, inhuman or degrading treatment that allegedly occurred within the military units, originating from a deep-rooted and erroneous interpretation of military discipline. The Commission also concluded that the State had not provided the victim and his family with effective remedies, because the competent authorities had not opened an investigation *ex officio,* pertinent measures had not been taken to safeguard the object and purpose of the criminal proceedings even though Mr. Quispealaya had repeatedly denounced the existence of threats against himself and against other eyewitnesses, the trial had been heard by the military jurisdiction for almost seven years, and the duration of the trial had been unreasonable.

- **Members of the Village of Chichupac and neighboring communities of the municipality of Rabinal *v.* Guatemala**

On August 5, 2014, the Inter-American Commission submitted this case to the Court. According to the Commission, it refers to a series of massacres, extrajudicial executions, torture, forced disappearances, and rape against the members of the village of Chichupac and neighboring communities of the municipality of Rabinal, in the context of operations by the Army and collaborators during the internal armed conflict in Guatemala between 1981 and 1986. The Commission also alleged that the survivors of the village of Chichupac and neighboring communities had been victims of forced displacement and that, presumably, violations of the rights to honor and dignity, to freedom of conscience and religion, to freedom of association, and to property, as well as political rights had been perpetrated. According to the Commission, these events were part of the genocide committed against the Mayan indigenous people in Guatemala.

- **Chinchilla Sandoval *et al. v.* Guatemala**

On August 19, 2014, the Inter-American Commission submitted this case to the Court. It refers to the supposed violation of the human rights of María Inés Chinchilla Sandoval as a result of numerous alleged acts and omissions that culminated in her death, all while she was deprived of liberty in the Women's Guidance Center (COF). It is alleged that, while she was deprived of liberty, the State of Guatemala had been in a special position as guarantor of her right to life and integrity, despite which it had not made a complete diagnosis to determine all the ailments from which she suffered, or the specific requirements of the corresponding treatment. This situation had resulted in the worsening of her illnesses, the amputation of one of her legs, diabetic retinopathy, and arterial occlusive disease. Also, supposedly, faced with the special obligation imposed by the situation of a person with disabilities, the State had not provided adequate detention conditions to ensure her rights, taking into account that she required a wheelchair, among other factors derived from her situation.

- **Zegarra Marín *v.* Peru**

On August 22, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumption of innocence and the obligation to provide reasoning that prejudiced Agustín Bladimiro Zegarra Marín, who allegedly had been convicted by the Fifth Criminal Chamber of the Superior Court of Justice on November 8, 1996, of offenses against the administration of justice (concealment of a person), against breach of trust (falsification of documents in general), and corruption of officials. The Chamber had been explicit in indicating that the only evidence against Mr. Zegarra Marín was provided by the statements of his co-accused. It is also alleged that, despite the existence of

favorable evidence that directly contradicted these statements, the Chamber had not set out the reasons why this evidence had not raised doubts about the victim's criminal responsibility, but had supposedly merely indicated that the accusations made by the co-accused were "feasible." The Commission considered that the criminal conviction of a person based exclusively on the "feasibility" of the facts indicated in the statement of a co-accused should be considered under the principle of presumption of innocence.

- **Tenorio Roca *et al. v.* Peru**

On September 1, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed detention, transfer, torture, and subsequent forced disappearance of Rigoberto Tenorio Roca by Marines in the province of Huanta, Department of Ayacucho, starting on July 7, 1984. It is alleged that these events took place in a context of systematic human rights violations during the internal armed conflict in Peru, in an area and at a time in which the use of forced disappearance against persons perceived as terrorists or collaborators with terrorism was systematic and generalized. The whereabouts of Mr. Tenorio Roca are still unknown and his presumed forced disappearance remains unpunished.

- **Angel Alberto Duque *v.* Colombia**

On October 21, 2014, the Inter-American Commission submitted this case to the Court. It refers to the supposed exclusion of Ángel Alberto Duque from the possibility of obtaining a survivor's pension following the death of his companion, because his companion was of the same sex. The Commission considered that although the reason cited, consisting in the protection of the family, was hypothetically legitimate, the difference in treatment could not be considered appropriate, because the concept of family cited by the State authorities was limited and based on stereotypes, arbitrarily excluding different forms of family, such as those formed by same-sex couples. The Commission concluded that Mr. Duque had been a victim of discrimination based on his sexual orientation and considered that the State had not provided the victim with an effective remedy to counter this violation but rather, to the contrary, by their decisions, the judicial authorities who heard the case had perpetuated the prejudices and the stigmatization of same-sex couples. It also concluded that, due to the numerous vulnerabilities relating to Mr. Duque's circumstances, including his sexual orientation, the fact that he was HIV positive, and his financial situation, the victim's right to personal integrity had also been violated.

- **Herrera Espinoza *et al. v.* Ecuador**

On November 21, 2014, the Inter-American Commission submitted this case to the Court. It refers to the violation of several rights protected by the American Convention to the detriment of Jorge Eliécer Herrera Espinoza, Luis Alfonso Jaramillo González, Eusebio Domingo Revelles and Emmanuel Cano. The initial petition alleged that the presumed victims were detained on August 2, 1994, in a police operation to capture the presumed members of a drug-trafficking gang in Quito, during which twelve people were arrested. The presumed victims had allegedly been deprived of their liberty unduly and supposedly been taken to the INTERPOL offices, where they had been tortured in order to make them sign confessions. Subsequently, the petition referred to the criminal proceedings instituted against Eusebio Domingo Revelles, indicating that he had been kept in pre-trial detention inappropriately, and convicted based on statements obtained under duress. Consequently, the petitioners raised questions relating to the alleged detention and to supposed acts contrary to personal integrity with regard to the four presumed victims, and to alleged violations of due process with regard to Eusebio Domingo Revelles. The State indicated that the supposed arrests and the alleged pre-trial detention imposed on the presumed victims were justified in the context of the legal framework in force and the indications of their responsibility as part of a band dedicated to international drug-trafficking. It asserted that the presumed victims had not been subject to any kind of coercion when they gave their statements and that these had been given in the presence of an agent of the Public Prosecution Service. It also argued that the injuries described in the certifications had not been produced by State agents. In addition, it indicated that the proceedings instituted against Eusebio Domingo Revelles had complied with the guarantees of due process. Lastly, it affirmed that the domestic remedies available in the

State for the protection of the rights that the petitioner alleged had been violated had not been exhausted.

- **Manfred Amhrein *et al.* *v.* Costa Rica**

On November 28, 2014, the Inter-American Commission submitted this case to the Court. It refers to the alleged international responsibility of Costa Rica owing to the inexistence of a remedy that would obtain a thorough review of the criminal convictions imposed on seventeen persons. It is alleged that, under the criminal procedural framework in force at the time of the said convictions, the existing remedy had been the remedy of cassation that was limited to legal matters, excluding the possibility of a review of matters relating to facts and evidence. Furthermore, the Commission also considered that the two legislative reforms adopted by the State after the said judgments still did not guarantee the victims' right to appeal the judgment, while the mechanisms offered to individuals convicted with a final judgment before these reforms suffered from the same limitations. The Commission also considered that, with regard to some of the victims, the State had violated the right to judicial guarantees during the criminal proceedings against them, the right to personal liberty owing to the unreasonable length of the pre-trial detention, and the right to personal integrity owing to the poor detention conditions in the prison where they were confined.

- **Olga Yolanda Maldonado Ordóñez *v.* Guatemala**

On December 3, 2014, the Inter-American Commission submitted this case to the Court. It refers to an administrative proceeding that led to the dismissal of Olga Yolanda Maldonado Ordóñez, who worked as an official of the Guatemalan Ombudsman's Office. The Commission understood that, since this was a sanctions procedure, not only were the basic guarantees established in Article 8(1) of the American Convention applicable, but also the principle of strict legality, presumption of innocence, and the guarantees necessary for the exercise of the right of defense. The Commission concluded that the way in which the supposed grounds for dismissal that Ms. Maldonado had incurred in were notified, made it difficult for her to understand the purpose of the proceedings opened against her. Thus, Ms. Maldonado exercised her defense without having the basic information she needed. The Commission also concluded that the dismissal order was issued in violation of the obligation to provide the reasoning, the principle of legality, and the principle of presumption of innocence. The justification was that Ms. Maldonado had been dismissed owing to a "situation that had been reported," without any investigation having been conducted into whether or not the victim had really incurred in the respective grounds for dismissal. Lastly, the Commission concluded that none of the remedies filed by Ms. Maldonado had permitted a review of the sanction or constituted an effective remedy to counter the violations of due process.

- **Homero Flor Freyre *v.* Ecuador**

On December 11, 2014, the Inter-American Commission submitted this case to the Court. It refers to the presumed international responsibility of the State of Ecuador as a result of the decisions that led to the separation of Homero Flor Freire from the Ecuadorean armed forces, based on the Military Disciplinary Code in force at the time. The code allegedly penalized sexual acts among persons of the same sex with separation from service. The Commission alleged that, even though "maintaining discipline within an armed institution" constituted a legitimate objective, there was no proportional relationship in the means used towards an end between the penalization of "homosexual acts" in the Armed Forces and the military values that it was sought to protect, such as honor, dignity, discipline, and the culture of civility. The Commission indicated that affirming the contrary would entail ascribing a negative value to the sexual act between persons of the same sex in itself, in addition to encouraging the stigmatization of lesbians, gays and bisexual persons or those perceived as such.

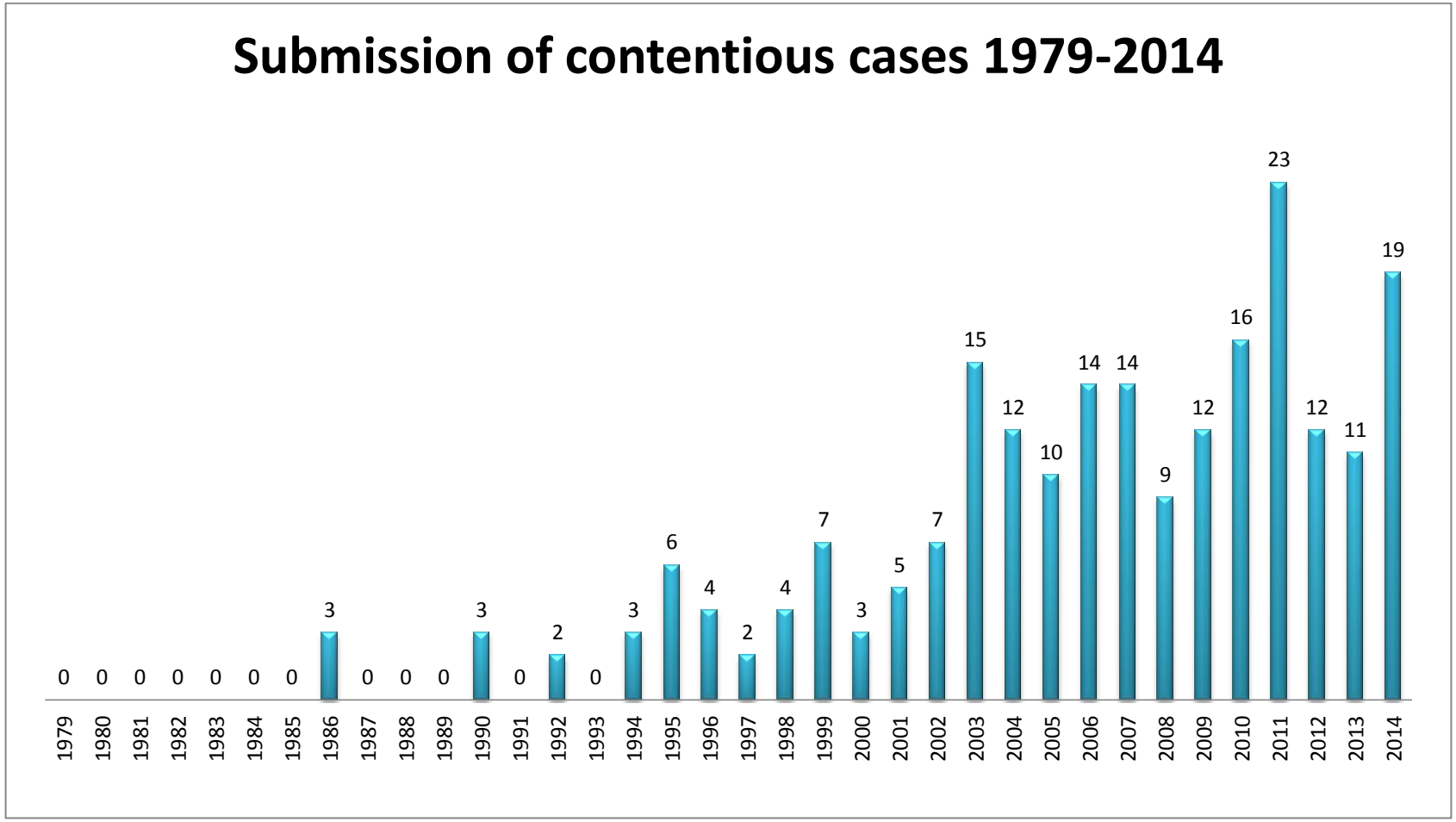
The Commission found that the regulations in force at the time included a less harmful penalty for "legitimate sexual acts" compared to those that the said norm referred to as "homosexual acts." On this point, the Commission qualified this differentiation in treatment as discriminatory. It also argued that, in the specific proceedings, discriminatory prejudices and biases had been present in both the evidentiary activities and in the judicial reasoning, as regards the ability of a person to exercise his

functions within a military institution based on his real or perceived sexual orientation. Lastly, the Commission found that, in the proceedings against Mr. Homero Flor Freire, the guarantee of impartiality was presumably violated, and that the application for protection filed did not constitute an effective remedy to protect his rights.

- **Village of La Esperanza *v.* Colombia**

On December 13, 2014, the Inter-American Commission submitted this case to the Court. It refers to the supposed forced disappearance of sixteen persons, including three children, and the presumed execution of another person, that occurred in the village of La Esperanza, municipality of El Carmen de Viboral, Department of Antioquia, between December 21 and 27, 1996. The Commission considered that members of the Colombian Armed Forces had coordinated the different incursions into the Village of La Esperanza with members of the paramilitary group known as the Self-defense Group of Magdalena Medio, because the victims were perceived to sympathize or collaborate with guerrilla groups operating in the area. Thus, it is alleged that all the events, with the exception of one that was perpetrated directly and exclusively by the Colombian Armed Forces, were committed by the paramilitary group with the support and acquiescence of State agents. In addition, the Commission considered that the facts remain unpunished because both the investigation and the ordinary criminal proceedings and the proceedings under the Justice and Peace Law were not diligent and did not punish any of those responsible for the events.

As can be seen in the following table, in 2014, the Inter-American Commission submitted many more cases than in the two previous years, corresponding to an average increase of almost 50% of the number of cases submitted.



2. Hearings

During 2014, twelve public hearings were held on contentious cases. During these hearings the Court received the statements of eleven presumed victims, six witnesses, eighteen expert witnesses, and two deponents for information purposes, for a total of 37 statements.

All the hearings were transmitted live on the Court's website and the files can be found at the following link: http://vimeo.com/corteidh

- **Case of Cruz Sánchez *et al. v.* Peru**

On February 3 and 4, 2014, during its 102nd regular session, the Court heard one deponent and four expert witnesses, one of whom took part in the hearing by video-conference, proposed by the representatives of the presumed victims, and the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/cruz_19_12_13.pdf

- **Case of the Landaeta Mejía Brothers *et al. v.* Venezuela**

On February 6, 2014, during its 102nd regular session, the Court heard the statements of one presumed victim proposed by the representatives of the victims and one witness proposed by the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/11_Case ofs_21_08_14.pdf

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

On April 1, 2014, during its fiftieth special session, the Court heard the statements of two presumed victims and one expert witness, proposed by the representatives of the presumed victims. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/rochac_03_03_14.pdf

- **Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano *v.* Panama**

On April 2, 2014, during its fiftieth special session, the Court heard the statements of two presumed victims, proposed by the representatives of the presumed victims. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/kuna_03_03_14.pdf

- **Case of Espinoza Gonzáles *v.* Peru**

On April 4, 2014, during its fiftieth special session, the Court heard one witness proposed by the representatives of the presumed victims, one witness proposed by the State and one expert witness proposed by the Inter-American Commission on Human Rights. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/espinoza_07_03_14.pdf

- **Case of the Garífuna Community of Triunfo de la Cruz and its members *v.* Honduras**

On May 20, 2014, during its 103rd regular session, the Court heard the statement of one presumed victim and one witness proposed by the representatives of the presumed victims, one expert witness proposed by the Inter-American Commission on Human Rights and one deponent for information purposes proposed by the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/garifuna_07_04_14.pdf

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

On May 22, 2014, during its 103rd regular session, the Court heard the statements of one presumed victim proposed by the representatives. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/zulema_26_03_14.pdf

- **Case of Arguelles *et al. v.* Argentina**

On May 27, 2014, during its 103rd regular session, the Court heard the opinions of one expert witness proposed by the inter-American defenders and one expert witness proposed by the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/arg%C3%BCelles_fv_13.pdf

- **Case of Granier *et al.* (Radio Caracas de Televisión) *v.* Venezuela**

On May 29 and 30, 2014, during its 103rd regular session, the Court heard the statements of one presumed victim and one expert witness proposed by the representatives of the presumed victims, one witness and one expert witness proposed by the State, and also two expert witnesses offered by the Inter-American Commission on Human Rights. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/granier_14_04_14.pdf

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

El September 2, 2014, during its fifty-first special session, the Court heard the statements of two presumed victims proposed by the representatives of the presumed victims. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/garifuna_31_07_14.pdf

- **Case of Wong Ho Wing *v.* Peru**

El September 3, 2014, during its fifty-first special session, the Court heard the opinions of three expert witnesses offered by the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/wong_28_07_2014.pdf

- **Case of Canales Huapaya *et al.* *v.* Peru**

On October 17, 2014, during its 105th regular session, the Court heard the statements of one presumed victim proposed by the inter-American defenders, one expert witness proposed by one of the common intervenors of the presumed victims and one witness proposed by the State. The Court also heard the final oral arguments of the parties, and the final observations of the Inter-American Commission.

The order convening the hearing can be found at the following link:
http://www.corteidh.or.cr/docs/asuntos/canaleshuapaya_17_09_14.pdf

3. Judgments

During 2014, the Court delivered sixteen judgments, which are divided into (c.1) thirteen judgments deciding the objections and/or merits of contentious cases, and (c.2) three interpretative judgments.

All the judgments may be found on the Court's website at the following link: http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=en

a) Judgments in contentious cases

- **Case of Liakat Ali Alibux *v.* Suriname. Preliminary objections, merits, reparations and costs. Judgment of January 30, 2014. Series C No. 276**

➢ **Summary**: This case was submitted by the Commission on January 20, 2012, and refers to the proceedings against Liakat Ali Alibux, who was Minister of Finance and Minister of Natural Resources between September 1996 and August 2000. On October 18, 2001, the Law on Indictment of Officials with Political Posts was adopted in order to regulate the procedure for the prosecution of those who had held office in the public administration for presumed criminal acts committed in the exercise of their functions, established in article 140 of the Constitution of Suriname. Mr. Alibux was investigated owing to the purchase of a building between June and July 2000 in his capacity as Finance Minister, subjected to a procedure before the National Assembly, and tried by the High Court of Justice of Suriname in sole instance. In addition, on January 3, 2003, Mr. Alibux was prevented from leaving his country for a personal trip. On November 5, 2003, Mr. Alibux was convicted of the perpetration of the offense of falsification and sentenced to one year's imprisonment and three years of disqualification from exercising a ministerial post. On August 27, 2007, a remedy of appeal was established in Suriname against proceedings conducted based on article 140 of the Constitution; nevertheless, Mr. Alibux did not use this remedy.

➢ **Ruling**: On January 30, 2014, the Inter-American Court of Human Rights delivered judgment and concluded that Suriname was not responsible for the alleged violations of the principles of legality and retroactivity, and to judicial protection. However, it declared the violation of the right to appeal the judgment before a higher court, and the right to freedom of movement and residence. As a result of these violations, the Court ordered the State to adopt specific measures of reparation.

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

http://www.corteidh.or.cr/docs/casos/articulos/seriec_276_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_276_esp.pdf

- **Case of Veliz Franco *et al. v.* Guatemala. Preliminary objections, merits, reparations and costs. Judgment of May 19, 2014. Series C No. 277**

➢ **Summary**: This case was submitted by the Commission on May 3, 2012, and refers to the disappearance and subsequent death of María Isabel Veliz Franco, who was 15 years of age at the time. It has not been proved that, following the report of her disappearance, State officials or departments took measures to search for the child. The investigation into the events commenced following the discovery of the corpse, remains ongoing, and those possibly responsible have not been identified.

➢ **Ruling**: On May 19, 2014, the Inter-American Court delivered judgment and concluded that the facts of the case occurred in a context of an increase of homicidal violence against women in Guatemala, in which the existence of gender-based murders was not exceptional. The Court declared the international responsibility of the State for violating, to the detriment of María Isabel, its duty to ensure the rights to life and personal integrity in relation to the rights of the child, and also its obligation to act with due diligence to prevent, investigate and punish violence against women under the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women. The Court also concluded that the State was responsible for violating the rights to judicial guarantees and to judicial protection, and the right to equality before the law, in relation to the general obligation to respect and ensure rights and to adopt domestic legal provisions, and to the duty to prevent, investigate and punish violence under the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, to the detriment of the members of María Isabel's family, as well as the right to personal integrity of María Isabel's mother. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_277_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_277_esp.pdf

- **Case of Brewer Carías *v.* Venezuela. Preliminary objections. Judgment of May 26, 2014. Series C No. 278**

➢ **Summary**: This case was submitted by the Commission on March 7, 2012, and relates to the criminal proceedings instituted against Allan Brewer Carías for the offense of "conspiracy to change the Constitution by violent means," in the context of events that occurred between April 11 and 13, 2002, in Venezuela.

➢ **Ruling**: On May 26, 2014, the Inter-American Court delivered judgment and admitted the preliminary objection filed by the State, because it found that, in this case, the appropriate and effective domestic remedies had not been exhausted, and that the exceptions to the requirement of prior exhaustion of domestic remedies were not admissible. Consequently, the Court concluded that it was not in order to continue on to analyze the merits.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_278_esp.pdf

- **Case of Norín Catrimán *et al.* (Leaders, members and activist of the Mapuche indigenous people) *v.* Chile. Merits, reparations and costs. Judgment of May 29, 2014. Series C No. 279**

➢ **Summary**: The case was submitted by the Commission on August 7, 2011, and refers to eight persons who were convicted as authors of offenses classified as terrorism in application of a law known as the "Counter-terrorism Act" for incidents that occurred in Regions VIII (Biobío) and IX (Araucanía) of Chile in 2001 and 2002. At the time of the incidents, three of these persons were traditional authorities of the Mapuche indigenous people, another four were members of this indigenous people, and one woman was an activist involved in the demands for this people's rights.

➢ **Ruling**: On May 29, 2014, the Inter-American Court delivered judgment and declared that the State was internationally responsible for the violation of the principle of legality and the right to presumption of innocence, as well as for the violation of the principle of equality and non-discrimination, and the right to equal protection of the law to the detriment of the eight victims. The Court also determined that Chile had violated the judicial guarantees and the right to personal liberty of the eight victims, as well as the right to protection of the family to the detriment of Víctor Manuel Ancalaf Llaupe. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_279_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/summary_279_esp.pdf

- **Case of the Landaeta Mejías Brothers *et al.* *v.* Venezuela. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2014. Series C No. 281**

➢ **Summary**: This case was submitted by the Commission on July 10, 2012, and refers to the death of Igmar Alexander Landaeta Mejías, 18 years of age, on November 17, 1996, and the arrest and death of his brother, Eduardo José Landaeta Mejías, aged 17, on December 29 and 31 that year, respectively.

➢ **Ruling**: On August 27, 2014, the Inter-American Court delivered judgment and determined that at the time the events occurred there was a serious problem of police abuse in different Venezuelan states, including the state of Aragua. The Court concluded that Venezuela was internationally responsible for the arbitrary deprivation of life of the Landaeta Mejías brothers. It also determined that the State was responsible for the violation of the rights to judicial guarantees and judicial protection, as well as the right to personal integrity of the family of the Landaeta brothers, owing to the lack of diligence during the investigations and criminal proceedings, as well as the right to a reasonable time; it was also responsible for the suffering and anguish resulting from the facts. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link:
http://corteidh.or.cr/docs/casos/articulos/seriec_281_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://corteidh.or.cr/docs/casos/articulos/summary_281_esp.pdf

- **Case of Expelled Dominicans and Haitians *v.* Dominican Republic. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2014. Series C No. 282**

➢ **Summary**: The case was submitted by the Commission on July 12, 2012, and relates to the illegal and arbitrary deprivation of liberty and subsequent summary expulsions of Dominicans and Haitians, including children, from the Dominican Republic to Haiti, in 1999 and 2000, without the due guarantees and without access to an effective remedy to ensure their rights.

➢ **Ruling**: On August 28, 2014, the Inter-American Court delivered judgment and declared that the State was internationally responsible for the violation of the following rights established in the American Convention on Human Rights: recognition of juridical personality, nationality, and name, and also, based on this series of violations, the right to identity, personal liberty, freedom of movement and residence, judicial guarantees, judicial protection, protection of the family, and protection of honor and dignity, in relation to the prohibition of arbitrary interference in private and family life. The violation of these rights was declared in relation to the failure to comply with the obligations of the Convention even, in some cases, with the obligation to respect rights without any discrimination. In addition, the Court declared the violation of the rights of the child to the detriment of the victims who were children when the events occurred. Lastly, the Court declared that the State had failed to comply with its obligation to adopt domestic legal provisions in relation to the rights to recognition of juridical personality, name and nationality, as well as, based on this series of rights, the right to identity and the right to equality before the law. These violations were committed to the detriment of Willian Medina, Lilia Jean Pierre, Awilda Medina Pérez, Luis Ney Medina, Carolina Isabel Medina, Jeanty Fils-Aimé, Janise Midi, Antonio Fils-Aimé, Diane Fils-Aimé, Endry Fils-Aimé, Bersson Gelin, William Gelin, Antonio Sensión, Ana Virginia Nolasco, Ana Lidia Sensión Nolasco, Reyita Antonia Sensión Nolasco, Víctor Jean, Marlene Mesidor, Markenson Jean Mesidor, Miguel Jean, Victoria Jean, Natalie Jean and Rafaelito Pérez Charles, owing to the individual circumstances of each victim. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_268_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/summary_268_esp.pdf

- **Case of the Human Rights Defender *et al. v.* Guatemala. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2014. Series C No. 283**

➢ **Summary**: This case was submitted by the Commission on July 17, 2012, and refers to the death of a human rights defender on December 20, 2004, the threats suffered by his daughter, also a human rights defender, and by his family members, the failure to investigate these facts, and the forced displacement of some members of the family, including a girl and two boys.

➢ **Ruling**: On August 28, 2014, the Inter-American Court delivered judgment and declared that it had insufficient evidence to declare that the State had failed to comply with its obligation to ensure the life and the political rights of the human rights defender. Nevertheless, the Inter-American Court found that Guatemala was internationally responsible for failing to comply with its obligation to ensure the rights of his family to personal integrity, and to freedom of movement and residence, violations that also occurred in relation to the rights of the children. Furthermore, the State failed to comply with its obligation to ensure the political rights of the daughter who was a human rights defender, and with its obligation to investigate the death of the human rights defender and the threats to which his family was subjected. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_283_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://corteidh.or.cr/docs/casos/articulos/summary_283_esp.pdf

- **Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano *v.* Panama. Preliminary objections, merits, reparations and costs. Judgment of October 14, 2014. Series C No. 284**

➢ **Summary**: This case was submitted by the Commission on February 26, 2013, and refers to the presumed continuing violation of the right to collective property of the Kuna indigenous people of Madungandí and the Emberá indigenous peoples of Bayano, owing to the State's supposed failure to comply with the payment of compensation related to the flooding of their lands as a result of the construction of a hydroelectric dam. In addition, it relates to the alleged failure to delimit, demarcate, grant title to, and protect the lands assigned to the said peoples. It also involves an alleged violation of the right to equality before the law and the principle of non-discrimination.

➢ **Ruling**: On October 14, 2014, the Inter-American Court delivered judgment and declared the international responsibility of the State of Panama owing to the violation of the right to collective property and the rights to judicial guarantees and to judicial protection of the Kuna communities of Madungandí and the Emberá communities of Ipetí and Piriatí, and their respective members, as of May 9, 1990, the date on which the State accepted the contentious jurisdiction of the Court. Since then, Panama had the obligation to delimit, demarcate and grant title to the lands assigned to the Kuna indigenous people of Madungandí and the Emberá indigenous peoples of Bayano. The Court also concluded that the State had failed to comply with the obligation to adapt its domestic laws, because it had not enacted laws that permitted the delimitation, demarcation and titling of collective lands until 2008. In addition, the Court declared the international responsibility of the State for violating the rights to judicial guarantees and judicial protection of the Emberá communities of Ipetí and Piriatí, finding that the remedies they had filed had not received a response that allowed proper determination of their rights and obligations. In addition, the Court found that the State was responsible for the violation of the principle of a reasonable time, with regard to two criminal proceedings and one administrative proceeding to evict squatters. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_284_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_284_esp.pdf

- **Case of Rochac Hernández *et al.* *v.* El Salvador. Merits, reparations and costs. Judgment of October 14, 2014. Series C No. 285**

➢ **Summary**: This case was submitted by the Commission on March 21, 2013, and refers to the forced disappearance of José Adrián Rochac Hernández, Santos Ernesto Salinas, Emelinda Lorena Hernández, Manuel Antonio Bonilla and Ricardo Abarca Ayala, starting on December 12, 1980, October 25 and December 12, 1981, and August 22, 1982, respectively, without any knowledge of their subsequent whereabouts or fate to date. These disappearances took place during different counterinsurgency operations during the armed conflict in El Salvador, and do not constitute isolated events, because they are inserted in a systematic pattern of forced disappearances of children by the State that has been verified during the said armed conflict. Total impunity exists in this case.

➢ **Ruling**: On October 14, 2014, the Inter-American Court delivered judgment and declared that the State was internationally responsible for the forced disappearances of the girl and the four boys and determined that these disappearances constituted multiple and continuing violations of various rights described in the judgment. It also determined that the State was responsible for the violation of the right to family life and to protection of the family to the detriment of the victims and the members of their families, as well as for the violation of the right to personal integrity to the detriment of the children's next of kin. In addition, it determined that El Salvador had violated the rights to judicial guarantees and to judicial protection, as well as the right to personal liberty of the children, and also of their families. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_285_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/summary_285_esp.pdf

- **Case of Tarazona Arrieta *et al. v.* Peru. Preliminary objections, merits, reparations and costs. Judgment of October 15, 2014. Series C No. 286**

➢ **Summary**: This case was submitted by the Commission on June 3, 2013, and refers to the deaths of Zulema Tarazona Arrieta and Norma Teresa Pérez Chávez, and the injuries caused to Luis Bejarano Laura, after a member of the Peruvian Army fired a shot at a public transport vehicle in which they were traveling. The incident took place on August 9, 1994, during a military patrol operation on the streets of the jurisdiction of Ate Vitarte, Lima.

➢ **Ruling**: On October 15, 2014, the Inter-American Court delivered judgment and declared that Peru was internationally responsible for the violation of the principle of a reasonable time for the criminal proceedings instituted against the member of the Army who fired the shot that killed Zulema Tarazona Arrieta and Norma Teresa Pérez Chávez, and injured Luis Bejarano Laura. The Court also considered that Peru had failed to comply with its obligation to adapt its domestic laws concerning care and prevention in the use of force and concerning the assistance due to those injured or involved, and due to the application of the Amnesty Law in the proceedings instituted against the person who fired the shot. Nevertheless, the Court determined that, in application of the principle of complementarity, it was not necessary to rule on the alleged violations of the rights to life and physical integrity of the victims. In addition, it did not find that the State had violated the right to personal integrity of their next of kin. Based on the violations found, the Court ordered the State to adopt specific measures of reparation

The judgment handed down in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_286_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link:
http://www.corteidh.or.cr/docs/casos/articulos/summary_286_esp.pdf

- **Case of Rodríguez Vera *et al.* (the Disappeared from the Palace of Justice) *v.* Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 14, 2014. Series C No. 287**

➢ **Summary**: This case was submitted by the Commission on February 10, 2012, and refers to the alleged forced disappearance of thirteen persons and the subsequent execution of one of them, as well as the presumed detention and torture of another four persons, following the events known as the taking and re-taking of the Palace of Justice in Bogotá, on November 6 and 7, 1985.

➢ **Ruling**: On November 14, 2014, the Court delivered judgment and found that the State was responsible for the forced disappearance of Carlos Augusto Rodríguez Vera, Irma Franco Pineda, Cristina del Pilar Guarín Cortés, David Suspes Celis, Bernardo Beltrán Hernández, Héctor Jaime Beltrán Fuentes, Gloria Stella Lizarazo Figueroa, Luz Mary Portela León, Lucy Amparo Oviedo Bonilla and Gloria Anzola de Lanao, as well as for the forced disappearance and extrajudicial execution of Carlos Horacio Urán Rojas. In addition, it declared the international responsibility of the State for having violated its obligation to ensure the right to life owing to the failure to discover the whereabouts of Ana Rosa Castiblanco Torres for 16 years, and of Norma Constanza Esguerra Forero to date. Furthermore, the facts of the case are related to the detention and torture of Yolanda Santodomingo Albericci, Eduardo Matson Ospino and José Vicente Rubiano, as well as to the detention and cruel and degrading treatment of Orlando Quijano, which took place in the context of the same events. Lastly, the State was declared responsible for the absence of a judicial clarification of the facts and for the violation of the right to personal integrity of the members of the victims'

families, as well as for non-compliance with its obligation of prevention in relation to the danger in which the persons in the Palace of Justice found themselves. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_287_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_287_esp.pdf

- **Case of Espinoza Gonzáles *v.* Peru. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 289**

The case was submitted by the Commission on December 8, 2011, and refers to the illegal and arbitrary detention of Gladys Carol Espinoza Gonzales on April 17, 1993, as well as to the rape and other acts that constituted torture while she was in custody of agents of the former Abduction Investigation Division (DIVESE) and of the National Counter-terrorism Division (DINCOTE). These acts were consistent with the systematic and generalized practice of torture, including sexual violence and other cruel, inhuman or degrading treatment or punishment, used at the time as an instrument of the counter-insurgency struggle, in the context of criminal investigations into the crimes of treason and terrorism during the Peruvian conflict. In this case, the victim had been accused of being a member of the MRTA insurgent group and of having taken part in the kidnapping of businessmen in order to obtain funds for the group. In addition to the acts of torture that occurred at the beginning of 1993, Gladys Carol Espinoza was subject to inhuman detention conditions during her confinement in the Yanamayo Prison from January 1996 to April 2001, without access to medical care and proper nutrition, despite the progressive deterioration of her health. In addition, the force used against Ms. Espinoza during a 1999 search in this prison constituted torture. Lastly, the Court determined that Peru had not opened an investigation into these incidents until 2012, despite numerous reports filed as of 1993 and the medical reports certifying the state of the victim's health.

➢ **Ruling**: On November 20, 2014, the Inter-American Court of Human Rights delivered judgment and declared the international responsibility of the State of Peru for the violation of the rights to personal liberty, personal integrity, protection of honor and dignity, judicial guarantees and judicial protection, as well as for failing to comply with the obligation of non-discrimination, all to the detriment of Gladys Carol Espinoza Gonzáles. In addition, it declared that Peru was responsible for the violation of the right to personal integrity of Teodora Gonzáles de Espinoza and Manuel Espinoza Gonzáles, Gladys Espinoza's mother and brother. Based on the said violations, the Court ordered the State to adopt specific measures of reparation.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_289_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_289_esp.pdf

- **Case of Argüelles *et al. v.* Argentina. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 288**

➢ **Summary**: The case was submitted by the Commission on May 29, 2012, and refers to the alleged violation of the right to personal liberty and the right to a fair trial in the domestic proceedings initiated in 1980 against 20 Argentine military officers for offenses of military fraudulence, among other matters, under the provisions of the Argentine Code of Military Justice in force at the time. The judicial proceedings began in October 1980 before the Argentine military jurisdiction. For around three years following the ratification of the American Convention by Argentina, 18 of the victims were kept in pre-trial detention. In June 1989, the 20 accused were convicted by the Supreme Court of the Armed Forces. Subsequently, they filed appeals before the ordinary jurisdiction and were tried by the National Criminal Cassation Chamber in March 1995. In its judgment, the Chamber rejected the

appeals based on the statute of limitations and on unconstitutionality; it rejected the requests for amnesty under Law No. 22,924 (the National Pacification Act) and Law No. 23,521 (Due Obedience), declared the partial nullity of the appeals based on unlawful association presented by the Prosecutor General of the Armed Forces; reduced the punishments imposed on 19 of those convicted and acquitted one of them. Special appeals and a remedy of complaint were filed before the Supreme Court of Justice of the Nation, and these were rejected based on lack of autonomous grounds.

➢ **Ruling**: On November 20, 2014, the Court delivered judgment and decided three preliminary objections filed by the State concerning: (a) lack of competence *ratione temporis*; (b) lack of competence *ratione materiae*, and (c) failure to exhaust domestic remedies. Unanimously, the Court admitted the first two preliminary objections filed by the State concerning its competence *ratione temporis* and *ratione materiae*, and therefore declared that it did not have competence to examine acts that occurred before Argentina accepted the Court's contentious jurisdiction on September 5, 1984, or to declare violations of the American Declaration of the Rights and Duties of Man. However, the Court declared itself competent to examine all the facts or acts that occurred after September 5, 1984. Regarding the preliminary objection of failure to exhaust domestic remedies, the Court rejected the State's argument finding that it was time-barred. Then, with regard to the merits of the case, the Court declared that the State was internationally responsible for violating the rights to personal liberty and presumption of innocence of 18 of the victims. In addition, the Court also concluded that the State had violated the right of the victims to be assisted by legal counsel of their own choosing to the detriment of 18 of the victims and another two persons. The Court also considered that, during the proceedings in the domestic sphere, the State had incurred in an unreasonable time in trying the accused, to the detriment of the 20 victims. Regarding the State's alleged international responsibility for the presumed violations of Articles 8(1) and 25 of the American Convention, in this case, given its particularities and the matter of the Court's competence *ratione temporis*, and in view of the intervention of the ordinary jurisdiction respecting the guarantees of due process and of the principles of judicial independence and impartiality, the Court concluded that the State had not incurred in this violation. Regarding the alleged violations of the principle of legality and retroactivity and political rights, the Court concluded that the State had not violated these rights in this case.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_288_esp.pdf

In addition, the official summary of the judgment in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/summary_288_esp.pdf

b) Interpretative judgments

• **Case of the Supreme Court of Justice (Quintana Coello *et al.*) *v.* Ecuador. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of August 21, 2014. Series C No. 280**

➢ On August 21, 2014, the Court delivered judgment on the request for interpretation of the judgment on merits, reparations and costs of August 23, 2013, and determined that this request was inadmissible because it constituted a means of contesting the considerations and decisions adopted by the Court based on the information, arguments and evidence available to it when it established the compensation due to the victims. In addition, the Court considered that, by means of the request for interpretation, the representatives were seeking a re-assessment of matters that had been decided by the Court in the absence of any possibility that the judgment could be amended or expanded pursuant to Articles 67 of the American Convention and 31(3) and 68 of the Court's Rules of Procedure.

➢ The judgment handed down in this case can be found at the following link: http://corteidh.or.cr/docs/casos/articulos/seriec_280_esp.pdf

- **Case of Osorio Rivera *v.* Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 290**

➢ On November 20, 2014, the Court delivered judgment interpreting the judgment on preliminary objections, merits, reparations and costs of November 26, 2013, and declared the State's request for interpretation of the judgment admissible. It also declared the request for interpretation admissible as regards the reparation ordered by the Court concerning an adequate definition of the offense of forced disappearance. Consequently, by an interpretation of paragraphs 211, 212 and 271 and the twelfth operative paragraph of the judgment on preliminary objections, merits, reparations and costs, it clarified the meaning and scope of the State's obligation to adopt the necessary measures to amend, within a reasonable time, its criminal legislation in order to make the definition of forced disappearance of persons compatible with the relevant international standards. At the same time, it rejected as inadmissible the three other elements of the State's request for interpretation of the judgment which related to the considerations on the amnesty laws, the training programs for the Armed Forces, and the amounts established for pecuniary and non-pecuniary damages.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_290_esp.pdf

- **Case of J *v.* Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 291**

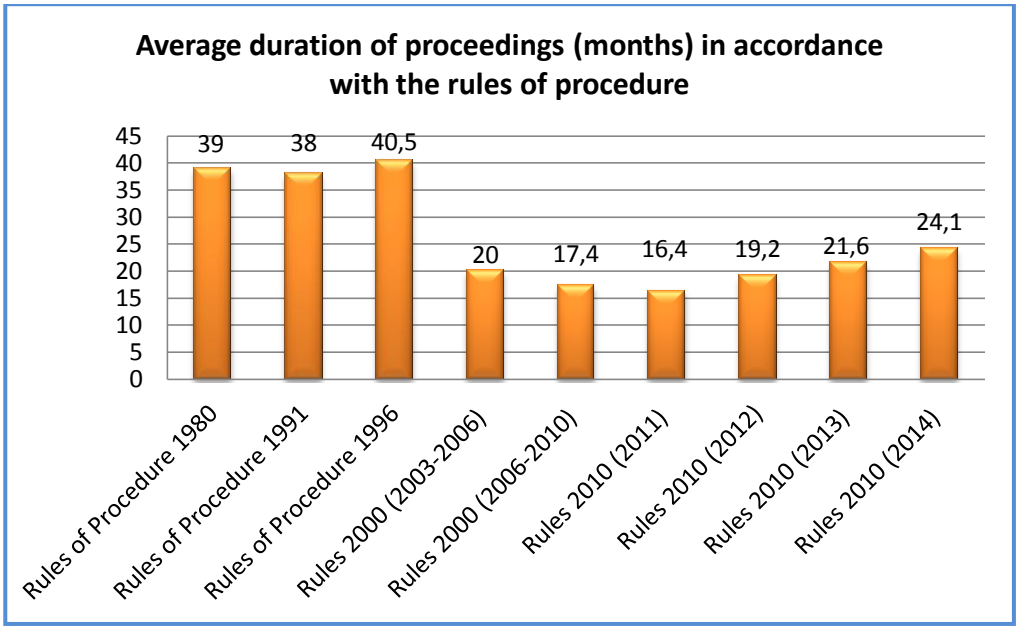
➢ On November 20, 2014, the Court delivered judgment interpreting the judgment on preliminary objections, merits, reparations and costs in this case of November 27, 2013. In this interpretative judgment, the Court declared admissible the requests for interpretation filed by the State and the representative of the victim and clarified the meaning and scope of its considerations on the legal classification of the ill-treatment suffered by J. at the time of her detention. In addition, in this interpretative judgment, the Court rejected as inadmissible, certain questions raised by the State and the representative, considering that they were not in keeping with the provisions of Articles 67 of the American Convention and 68 of the Court's Rules of Procedure. Lastly, two clerical errors found in the judgment on preliminary objections, merits, reparations and costs were rectified in this interpretative judgment.

The judgment handed down in this case can be found at the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_291_esp.pdf

4. Average time required to process cases

Each year the Court makes a great effort to decide the cases before it promptly. The principle of a reasonable time established in the American Convention and the Court's consistent case law is applicable not only to the domestic proceedings in each State Party, but also to the international organs or courts whose function it is to decide petitions concerning presumed human rights violations.

In 2014, the average time required to process cases before the Court was 24.1 months.



5. Monitoring compliance with judgments

a) Private hearings on monitoring compliance with judgment held in 2014

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

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

i. Hearings on monitoring compliance with judgment in individual cases

On February 4, 2014, during the 102nd regular session, the following hearings were held:

- **Case of García Prieto *et al.* *v.* El Salvador.**
- **Case of the La Rochela Massacre *v.* Colombia.**

On May 21, 2014, during the 103rd regular session, the following hearing was held:

- **Case of Gomes Lund *et al.* ("*Guerrilha do Araguaia*") *v.* Brazil.**

On November 21, 2014, during the 106th regular session, the following hearings were held:

- **Case of Ibsen Peña and Ibsen Cárdenas *v.* Bolivia**
- **Case of Ticona Estrada *v.* Bolivia**
- **Case of the Ituango Massacres *v.* Colombia**

ii. **Joint hearings on monitoring compliance with judgment**

The Court has adopted the practice of holding joint hearings to monitor compliance with the judgments in several cases against a same State, when it has ordered similar reparations or in cases in which it has verified that structural problems or difficulties exist that could become obstacles to the implementation of specific measures of reparation. This allows the Court to deal with such problems transversally in different cases and to obtain a general overview of the progress made, and any impediments to such progress in a State. This practice also has a direct impact on the principle of procedural economy.

- **Joint monitoring of compliance with the obligation to investigate, prosecute and punish, as appropriate, those responsible for the facts in relation to the cases of Blake, the "Street Children" (Villagrán Morales), Bámaca Velásquez, Mack Chang, Maritza Urrutia, the Plan de Sánchez Massacre, Molina Thiessen, Carpio Nicolle *et al.*, Tiu Tojín, the Las Dos Erres Massacres, and Chitay Nech, all of them with regard to Guatemala.** The hearing was held on May 16, 2014, during the 103rd regular session.

- **Joint monitoring of compliance with the judgments in the cases of the Yakye Axa Indigenous Community, the Sawhoyamaxa Indigenous Community, and the Xámok Kásek Indigenous Community, all of them with regard to Paraguay.** The hearing was held on May 21, 2014, during 103rd regular session.

b) Orders on monitoring compliance with judgment issued in 2014

All the orders on monitoring compliance with judgment adopted by the Court are available on its website at the following link:
http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=es

Also, each of them can be found at the individual link indicated below:

- **Case of the Miguel Castro Castro Prison *v.* Peru.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 31, 2014. This order can be found at the following link:

http://www.corteidh.or.cr/docs/supervisiones/castro_31_03_14.pdf

- **Cases of the Río Negro Massacres and Gudiel Álvarez *et al.* *v.* Guatemala**. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2014. This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/Rio_Negro_y_Gudiel_21_08_14.pdf

- **Joint monitoring of 11 cases *v.* Guatemala.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2014**.** This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/11_Casos_21_08_14.pdf

- **Case of the Supreme Court of Justice (Quintana Coello *et al.*) *v.* Ecuador.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 21, 2014. This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/quintana_21_08_14.pdf

- **Case of Gomes Lund *et al.* ("Guerrilha do Araguaia") *v.* Brazil.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of October 17, 2014. This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/gomes_17_10_14.pdf

- **Case of Salvador Chiriboga *v.* Ecuador.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 20, 2014. This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/chiriboga_20_11_14.pdf

- **Cases of Fernández Ortega *et al.* and Rosendo Cantú *et al.* *v.* Mexico.** Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 21, 2014. This order can be found at the following link:
http://www.corteidh.or.cr/docs/supervisiones/fernandez_21_11_14.pdf

C. Provisional measures

During 2014, two joint private hearings were held on monitoring compliance with judgment and provisional measures in relation to the cases of García Prieto *et al. v.* El Salvador and the La Rochela Massacre *v.* Colombia, as well as a joint public hearing on the provisional measures in the matters of Alvarado Reyes *et al.*, and Castro Rodríguez with regard to Mexico. In this regard, it should be underlined that the practice adopted by the Court of holding joint hearings allows it to identify problems or difficulties that prevent the effective adoption of the measures ordered, and also has a direct impact on the principle of procedural economy.

During the year, three new provisional measures were adopted and four provisional measures repeated. Moreover, no provisional measures were lifted totally.

1. Adoption of provisional measures

During 2014 the Court adopted three new provisional measures:

- **Matter of the Curado Prison Complex with regard to Brazil**

  On March 31, 2014, the Inter-American Commission on Human Rights submitted a request for provisional measures asking the Court to require the Federative Republic of Brazil to adopt immediately the necessary measures to preserve the life and personal integrity of the persons deprived of liberty in the Curado Prison Complex, as well as all those within this establishment, located in Recife, state of Pernambuco, Brazil. On May 22, 2014, the Court issued an order requiring the State to adopt immediately all necessary measures to protect the life and personal integrity of all those deprived of liberty in the Curado Complex, as well as of any person in that establishment, including prison guards and officials, and visitors.

  This order can be found at the following link:

http://www.corteidh.or.cr/docs/medidas/curado_se_01.pdf

- **Matter of Danilo Rueda with regard to Colombia**

El May 2, 2014, the acting President of the Inter-American Court issued an order requiring the State to adopt, immediately and on an individual basis, the necessary measures to ensure the life and personal integrity of Danilo Rueda and, also, to make a risk assessment of his specific situation. In an order of May 28, 2014, the Court ratified the order of the acting President of May 2, 2014, and, consequently, required the State to maintain any measures that it was implementing, and also to adopt, immediately and on an individual basis, any necessary supplementary measures that were required following the assessment of Mr. Rueda's specific situation in order to avoid irreparable harm to his life and personal integrity.

These orders can be found at the following links:
http://www.corteidh.or.cr/docs/medidas/rueda_se_01.pdf
http://www.corteidh.or.cr/docs/medidas/rueda_se_02.pdf

- **Matter of the Pedrinhas Prison Complex with regard to Brazil**

On September 23, 2014, the Inter-American Commission submitted a request for provisional measures asking the Court to require the Federative Republic of Brazil to adopt immediately the necessary measures to preserve the life and personal integrity of the persons deprived of liberty in the Pedrinhas Prison Complex, as well as all those within this establishment, located in Sao Luís, state of Maranhão, Brazil. On November 14, 2014, the Court issued an order requiring the State to adopt immediately all necessary measures to protect the life and personal integrity of all those deprived of liberty in the Pedrinhas Complex, as well as of any person in that establishment, including prison guards and officials, and visitors.

This order can be found at the following link:
http://www.corteidh.or.cr/docs/medidas/pedrinhas_se_01.pdf

2. Repetition or expansion of provisional measures and partial lifting of measures, or measures that ceased to have effects with regard to certain persons

In addition, during 2014, the Court issued four orders on monitoring provisional measures, in which it required the repetition or, when appropriate, the expansion of these measures. In two of these matters the Court lifted them partially, or determined that these measures had partially ceased to have effect with regard to certain persons.

- **Matter of the Socio-educational Internment Unit with regard to Brazil**

On December 30, 2010, the Inter-American Commission on Human Rights submitted a request for provisional measures to the Court. On February 25 and September 1, 2011, April 26 and November 20, 2012, August 21, 2013, and January 29, 2014, the Court issued orders in which, among other matters, it required the Federative Republic of Brazil to adopt immediately all necessary measures to protect the life and personal integrity of all the children and adolescents deprived of liberty in the Socio-educational Internment Unit, as well as of any other person in that establishment. Lastly, on September 26, 2014, the President of the Court issued an order in which, among other matters, he ratified the provisional measures that had been granted and extended their effects until July 1, 2015.

These orders can be found at the following links:
http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_08.pdf
http://www.corteidh.or.cr/docs/medidas/socioeducativa_se_07.pdf

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

On January 29, 2014, following the submission of this case to the Court's jurisdiction, the Court issued an order in which it found it pertinent to extend the effects of the provisional measures granted in favor of Wong Ho Wing, to ensure that the State of Peru would abstain from extraditing him until the Court had taken a final decision on the case in the context of its contentious jurisdiction. Subsequently, on March 31, 2014, the Court issued an order in which it rejected a request presented by Wong Ho Wing's representative to expand the purpose of these provisional measures and require the State to order the "immediate release" of the beneficiary.

These orders can be found at the following links:
http://www.corteidh.or.cr/docs/medidas/wong_se_13.pdf
http://www.corteidh.or.cr/docs/medidas/wong_se_14.pdf

- **Case of Mack Chang *et al.* with regard to Guatemala**

On May 14, 2014, the Court issued an order in which it considered it pertinent to maintain the provisional measures required by the Court in its orders of January 26, August 14 and November 16, 2009, in favor of Helen Mack, Zoila Esperanza Chang Lau, Marco Antonio Mack Chang, Vivian Mack Chang, Ronald Mack Chang Apuy, Lucrecia Hernández Mack and their children, and of the members of the Myrna Mack Chang Foundation until January 29, 2015.

Furthermore, in this order, it decided that the effects of the provisional measures granted in favor of Freddy Mack Chang had ceased owing to his decease.

These orders can be found at the following links:
http://www.corteidh.or.cr/docs/medidas/mackchang_se_07.pdf
http://www.corteidh.or.cr/docs/medidas/mackchang_se_06.pdf

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

On October 14, 2014, the Court issued an order in which it agreed to maintain, as pertinent, the provisional measures it had required in its orders of May 12 and November 26, 2007, February 2, 2010, and August 21, 2013, in favor of Adrián Meléndez Quijano, Marina Elizabeth García de Meléndez, Andrea Elizabeth Meléndez García, Estefani Marcela Meléndez García, Pamela Michelle Meléndez García, Adriana María Meléndez García, Gloria Tránsito Quijano widow of Meléndez, Sandra Ivette Meléndez Quijano, until April 15, 2015.

In addition, in this order it decided to lift the provisional measures required on May 12, 2007, in favor of Roxana Jacqueline Mejía Torres and Manuel Alejandro Meléndez Mejía.

This order can be found at the following link:
http://www.corteidh.or.cr/docs/medidas/melendez_se_07.pdf

D. Advisory function

- **Advisory Opinion OC-21/14 on "Rights and guarantees of children in the context of migration and/or in need of international protection"**

On July 7, 2011, under Article 64(1) of the American Convention and pursuant to the provisions of Articles 70(1) and 70(2) of the Rules of Procedure, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay presented a request for an advisory opinion on child migrants for the Court to "determine with greater precision the obligations of States as regards the measures that should be adopted concerning children in relation to their immigration status or that of their parents, in light of the authorized interpretation of Articles 1(1), 2,

4(1), 5, 7, 8, 11, 17, 19, 22(7), 22(8), 25 and 29 of the American Convention on Human Rights, Articles 1, 6, 8, 25 and 27 of the American Declaration of the Rights and Duties of Man, and Article 13 of the Inter-American Convention to Prevent and Punish Torture."

In accordance with the request of the applicant States, on August 19, 2014, the Inter-American Court issued the Advisory Opinion entitled "Rights and guarantees of children in the context of migration and/or in need of international protection" in which it determined, with the greatest precision possible and in keeping with above-mentioned articles, the obligations of States with regard to children in relation to their migratory situation or that of their parents. Consequently, States must take these obligations into considerations when designing, adopting, implementing and applying their immigration policies, including in such policies, as appropriate, both the adoption or application of the corresponding norms of domestic law, and the adhesion to, or application of, the pertinent treaties and/or other international instruments.

The Court understood that its answer to the request would be of specific usefulness in the context of a regional reality in which elements of the obligations of States towards child migrants have not been clearly and systematically established based on the interpretation of the relevant norms. This usefulness is revealed by the significant interest shown by all the participants in the advisory procedure.

In view of the fact that the obligations determined in this Advisory Opinion relate to an issue that is so unique, complex and every-changing at the present time, they should be understood as part of the progressive development of international human rights law, a process within which this Advisory Opinion is consequently inserted.

- **Request for an advisory opinion presented to the Inter-American Court of Human Rights by the State of Panama**

Currently, the request for an advisory opinion presented by the Republic of Panama on April 28, 2014, is pending a ruling by the Court. Panama has asked the Court to interpret and define the scope of Article 1(2) of the Convention, in relation to Articles 1(1), 8, 11(2), 13, 16, 21, 24, 25, 29, 30, 44, 46 and 62(3) of this instrument, as well as of the "right to strike and to form federations and confederation under Article 8 of the Protocol of San Salvador." Regarding Article 1(2) of the Convention, the State indicated its interest in knowing: (a) "the scope and protection of natural persons by legal entities or 'legally recognized non-governmental entities,' both to exhaust the proceedings of the domestic jurisdiction and to file reports on human rights violations before the Inter-American Commission on Human Rights"; and (b) "the scope and protection of natural persons by legal entities or 'legally recognized non-governmental entities,' as such, as instruments of natural persons to achieve their legitimate objectives." In addition, Panama indicated that it wished to know "whether or not Article 16 of the Convention, which recognizes that everyone has the right to associate freely, is limited by the restriction of protection to associations formed freely by natural persons as 'legally recognized non-governmental entities' to protect their rights expressed and implemented by means of the legal entities that are formed under the right to freedom of association."

E. Evolution of the Court's case law

This section highlights some of the developments in the Court's case law during 2014, as well as some of the opinions that reaffirm the case law already established by the Court.

These case law developments establish standards that are significant when the domestic organs and public authorities apply the so-called "control of conformity with the Convention or control of conventionality" within their respective spheres of competence. In this regard, the Court has recalled that it is aware that the domestic authorities are subject to the rule of law and, consequently, they are obliged to apply the legal provisions in force. But, when a State is a party to an international treaty such as the American Convention, all its organs, including its judges, are also subject to this treaty, which obliges them to ensure that the effects of the provisions of the Convention are not weakened by the application of norms that are contrary to its object and purpose. Thus, the Court has established that all

the State authorities are obliged to exercise *ex officio* "control of conventionality" to ensure concordance between domestic law and the American Convention, evidently within their respective spheres of competence and the corresponding procedural regulations. This refers to the analysis that the State's organs and agents must make (in particular, the judges and other agents of justice) of the compatibility of domestic norms and practices with the American Convention. In their decisions and specific actions, these organs and agents must comply with the general obligation to ensure the rights and freedoms protected in the American Convention, ensuring that they do not apply domestic legal provisions that violate this treaty, and also that they apply this treaty correctly, as well as the jurisprudential standards developed by the Inter-American Court, ultimate interpreter of the American Convention.

The Court has indicated that a dynamic and complementary control of the treaty-based obligation of States to respect and ensure human rights has been established between the domestic authorities (who bear the primary obligation) and the international organs (on a complementary basis), so that decision-making criteria can be harmonized and adapted. Hence, the Court's case law includes examples in which the decisions of domestic courts have been used to found and conceptualize the violation of the Convention in a specific case. At other times, it has been recognized that, in accordance with their international obligations, the domestic organs, instances and courts have adopted satisfactory measures to remedy the situation that originated a case, settled the alleged violation, and established reasonable reparations, or have exercised an adequate control of conventionality.

The Court will now describe some of the most relevant case law development during 2014:

a) Right to life and personal integrity (Articles 4 and 5)

- **Protection of human rights defenders**

The Court recognized that international consensus exists that, among other activities, human rights defenders are involved in the promotion and protection of human rights. It underscored that these activities must be carried out peacefully, so that this concept does not include acts of violence or acts that lead to violence. In addition, these activities of the promotion and protection of human rights may be carried out intermittently or occasionally, so that the condition of human rights defender is not necessarily permanent.[50]

The Court established that the State obligation to ensure the rights to life and personal integrity of the individual is increased in the case of a human rights defender, and that States must establish special measures of adequate and effective protection. In this regard, it indicated that, for the measures to be adequate, they must be suitable to deal with the danger that an individual faces and, to be effective, they must be able to produce the results for which they were conceived. It considered that, in order to comply with the requirement of suitability in the case of human rights defenders, the special measures of protection must: (a) be in keeping with the functions performed by the defenders; (b) the risk level must be assessed in order to adopt measures and monitor those that are in force, and (c) it must be possible to modify them in keeping with changes in the level of danger. Thus, the type of protective measures must be decided in consultation with the defenders in order to establish an opportune and focused intervention that is proportionate to the danger that the defender could face. Furthermore, particular attention should be paid to a gender-based approach in the risk-assessment procedure, because it could reveal a differentiated level of danger, and have an impact on the implementation of the measures of protection. To ensure that the measures are effective, the following elements are essential: (a) an immediate State response as soon as there is awareness of the existence of the danger, to ensure that the measures are opportune; (b) that those who intervene in the protection of the defenders have the necessary training to perform their functions and with regard to the importance of their actions, and (c) they must be kept in effect for as long as the victims of violence or threats require them.[51]

50 Cf. Case of the Human Rights et al. v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of August 28, 2014. Series C No. 283, para. 129

51 Cf. Case of the Human Rights Defender et al. v. Guatemala, supra, paras. 142 and 157

- **Death of an individual, particular a child, in state custody**

The Court reiterated its consistent case law according to which States, as guarantors of the rights established in the Convention, are responsible for ensuring the rights of any individual who is in their custody. When a person – and especially a child – who is in its custody dies in a violent manner, the State must prove that this death cannot be attributed to it. The Court has indicated that the State has the obligation to provide a satisfactory and convincing explanation of what happened to persons in its custody and to disprove the allegations of its responsibility with valid probative elements.[52]

- **Protection of the right to personal integrity of persons in state custody**

Regarding the right to personal integrity, the Court indicated that the State is responsible, as guarantor of the rights established in the Convention, for ensuring the right to personal integrity of any individual who is in its custody. Thus, the Court reiterated that, since the State is responsible for detention and confinement establishments, it has the duty to safeguard the health and welfare of those deprived of liberty, and to guarantee that the manner and method of deprivation of liberty do not exceed the unavoidable level of suffering inherent in detention. Furthermore, the Court has indicated in its case law that whenever a normally healthy person is deprived of liberty and subsequently appears with health problems, the State must provide a satisfactory and convincing explanation of that situation, and disprove the allegations of its responsibility with valid probative elements. In specific circumstances, "the absence of an explanation [could lead] to the presumption of State responsibility for the injuries revealed by a person who has been in the custody of State agents."[53]

- **Violence against women and discovery of the body of a girl child**

The Court indicated that, in relation to violence against women, the obligation to guarantee rights acquires special significance in relation to girl children, and this gives rise to the State's obligation to act with greater and more rigorous diligence to protect and ensure the exercise and enjoyment of the rights of girl children in response to the violation of these rights, or even the mere possibility of this, by acts that, actually or potentially, involve gender-based violence or could lead to this type of violence.[54]

Regarding the time before the discovery of the body, it must be decided whether, in view of the particular circumstances of the case and their context, the State was aware that a real and imminent danger existed that the victim would be attacked, in which case it had an obligation of due diligence that required it to conduct a thorough search. In particular, the prompt and immediate action of the police, prosecution and judicial authorities was essential, ordering the prompt and necessary measures aimed at discovering the victim's whereabouts. Adequate procedures should have existed for reporting missing persons, and these should lead to an effective investigation from the very start. The Court reiterated that the authorities should presume that the missing person is alive until the uncertainty about his or her fate has been resolved.[55]

The State had the duty to collect all the basic information required to comply with its treaty-based obligations in relation to the rights of girl children and, in order to ensure such rights, it had a duty to act with the greatest and most rigorous diligence. Consequently, when there are clear indications of the existence of a context known to the State, the possibility that the State has insufficient information cannot be cited to counter the right to demand due observance of the obligation to guarantee rights.[56]

52 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2014. Series C No. 281, para. 183.

53 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 198.

54 Cf. Case of Veliz Franco v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of May 19, 2014. Series C No. 277, para. 134.

55 Cf. Case of Veliz Franco v. Guatemala, supra, para. 141.

56 Cf. Case of Veliz Franco v. Guatemala, supra, para. 152.

- **Violence against women in state custody**

The Court considered that certain acts to which a woman in the custody of the State was subjected constituted forms of violence against women.[57] The Court emphasized the special vulnerability in which the victim was placed, handcuffed to a bed and surrounded by men who were presumably armed, without being able to see what was happening because she was blindfolded. The Court also considered that a threat to cut her hair, as well as an expression of contempt with regard to a supposed pregnancy, denoted conduct addressed at the victim owing to her condition as a woman that, depending on the circumstances of the case, could constitute treatment contrary to Article 5(2) of the Convention, but also, in the specific case of a woman, could have connotations and implications concerning her femininity, as well as impact on her self-esteem.[58] Some of the ill-treatment to which the victim was subjected (which, taken as a whole, the Court had previously classified as torture[59]), was exacerbated by her condition as a woman and was gender-based, which constituted violence against women.[60]

- **Male sexual violence**

The Court had the occasion to rule on a case of male sexual violence and considered that subjection to electric shocks in the testicles, in addition to constituting torture, also constituted sexual violence.[61] The Court reiterated its case law according to which sexual violence is constituted by acts of a sexual nature committed against a person without their consent and which, in addition to being a physical invasion of the human body, may include acts that do not involve penetration or even any physical contact.[62] Subjecting a person to electric shocks in their genitals entails an invasion of their privacy that constitutes an act of sexual violence. The Court reiterated and underscored that sexual violence perpetrated by a State agent against a person deprived of liberty in the State's custody is egregious and reprehensible, taking into account the vulnerability of the victim and the abuse of power deployed by the agent; it also physically and emotionally demeaning and humiliating, and may have severe psychological consequences for the victim.[63]

- **Standards for the use of force**

The Court has developed its case law on the use of force based on three main moments: (a) preventive actions; (b) actions concomitant with the events, and (c) actions following the events.[64]

Regarding preventive actions, the Court emphasized that the State must: (a) possess a suitable legal framework that regulates the use of force and that guarantees the right to life; (b) provide appropriate equipment to the agents responsible for the use of force, and (c) select and train those agents adequately. In particular, with regard to the obligation to guarantee rights, the Court reiterated its case law to the effect that the State has an obligation to adapt is domestic laws and "to ensure that its security agents, who are entitled to use legitimate force, respect the right to life of those subject to their jurisdiction." The State must establish precise internal policies in relation to the use of force and identify strategies to implement the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials. Thus, it must equip law enforcement officials with various types of weapons, ammunition and protective equipment that will allow them to react in a way that is proportionate to the incidents in which they must intervene, limiting the use of lethal weapons that can cause injury or death to the greatest extent possible. In addition, the State must provide courses for its agents to ensure they know the legal provisions that allow the use of firearms and

57 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 14, 2014. Series C No. 287, para. 427.

58 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 427.

59 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 424.

60 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 427.

61 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, paras. 424, 425 and eighth operative paragraph.

62 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 425.

63 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 425.

64 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 124

that they have adequate training so that if they are ever faced with a decision on whether to use them, they have the necessary knowledge to do so.[65]

Regarding concomitant actions, the Court has indicated that, "during an event when force is used, the State agents, insofar as possible, must assess the situation and draw up a plan of action prior to intervening. Consequently, police operations should be aimed at the arrest of the presumed offender and not at the deprivation of his life."[66]

According to the Court's case law, it should be recalled that, "in any case of the use of force [by State agents] that has caused the death of or injuries to one or more individuals, the State has the obligation to provide a satisfactory and convincing explanation of what happened and to disprove the allegations of its responsibility, with adequate probative elements."[67]

If the use of force becomes unavoidable, it must be used in accordance with the principles of legitimate purpose, absolute necessity, and proportionality:

> i. Legitimate purpose: the use of force must be addressed at achieving a legitimate purpose. [..] The Court has already indicated the absence of specific legislation on this matter, even though general norms exist on bearing firearms and their use for legitimate defense or public order.
>
> ii. Absolute necessity: it is necessary to verify whether other, less harmful, means exist to protect the life and integrity of the person or situation that it is sought to protect, according to the circumstances of the case. The Court has indicated that it cannot be concluded that the requirement of "absolute necessity" to use force against persons has been met when they do not represent a direct danger, "even when the failure to use force results in the loss of the opportunity to capture them." […]
>
> iii. Proportionality: the level of force used must be in accordance with the level of resistance offered, which implies establishing a balance between the situation that the agent is facing and his response, considering the potential harm that could be caused. Thus, agents must apply a standard of differentiated use of force, determining the level of cooperation, resistance, or aggressiveness of the person involved and, on this basis, use tactics of negotiation, control or use of force, as appropriate.[68]

In order to avoid confusion and uncertainty, it is essential that law enforcement officials identify themselves as such and give a clear warning of their intention to use their weapons at all times, especially, when they are conducting operations and, in particular, in situations that, owing to their nature, jeopardize the fundamental rights of the individual.[69]

In order to determine the proportionality of the use of force, the severity of the situation that the agent faces must be assessed. To this end, among other circumstances, it is necessary to consider: the level of intensity and danger of the threat; the attitude of the individual; the conditions of the surrounding area, and the means available to the agent to deal with the specific situation. In addition, this principles requires the law enforcement agent, at all times, to reduce to a minimum the harm or injuries caused to anyone, as well as to use the lowest level of force required to achieve the legitimate purpose sought.[70]

The Court reiterated its consistent case law, that when State agents use illegitimate, excessive or disproportionate force resulting in the loss of life, this is considered an arbitrary deprivation of life.[71]

Regarding actions subsequent to the use of force, the Court reiterated its case law that, pursuant to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, if injuries occur following the use of force, the necessary medical aid must be facilitated and rendered and relatives or close friends notified at the earliest possible moment. In addition, a report on the situation must be prepared for administrative review and judicial control. Similarly, the events must be investigated in order to

65 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 126

66 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 130

67 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 132

68 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 134.

69 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 135.

70 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 136.

71 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 142

determine the level and manner of participation of each of those who intervened, whether directly or indirectly, so that the corresponding responsibilities may be established.[72]

b) Judicial guarantees and protection (Articles 8 and 25)

- **Due diligence in the investigation of murders and violent gender-based attacks on women**

The Court determined that, in practice, it was often difficult to prove that a murder or a violent attack on a woman was gender-based. At times, that difficulty stemmed from the absence of a thorough and effective investigation of the violent incident and its causes by the authorities. Consequently, State authorities are bound to investigate *ex officio* the possible gender-based discriminatory connotations of an act of violence perpetrated against a woman, especially when there are specific indications of sexual violence of some type, or evidence of cruelty towards the body of the woman (for example, mutilations), or when such an act takes place in a context of violence against women in a specific region or country.[73]

The investigation into a supposed gender-based murder should not be limited to the death of the victim, but should include other specific violations of personal integrity, such as torture and acts of sexual violence. The initial stages of the investigation can be especially crucial in cases of the gender-based murder of women, because any errors that occur in procedures such as the autopsy and the collection and preservation of physical evidence may impede or obstruct the possibility of proving relevant aspects such as sexual violence. Therefore, when there are specific indications or suspicions of gender-based violence, the failure of the authorities to investigate the possible discriminatory motives for an act of violence against a woman may constitute, in itself, a form of gender-based discrimination. In addition, in this specific case, the Court considered that the lack of due diligence in the investigation of the victim's murder was closely related to the absence of specific norms or protocols for the investigation of cases of the gender-based murder of women and of violence against women in general. It added that gender stereotypes had a negative impact on the investigation of the case, insofar as they transferred the blame for what happened to the victim and her family members, closing other possible lines of investigation into the circumstances of the case and the identification of the perpetrators. In this regard, the Court indicated that the creation and use of stereotypes becomes a cause and consequence of gender-based violence against women.[74]

- **Stereotyped assessment of evidence**

The Court recognized and rejected gender stereotyping in a case in which women who were suspected of having committed an offense were considered to be intrinsically untrustworthy or manipulative, especially in the context of judicial proceedings.[75] The Court also stressed that, in order to guarantee access to justice for women victims of sexual violence, the State should establish rules for assessment of the evidence that avoid stereotyped assertions, insinuations and allusions.[76]

- **Due diligence in cases of torture and sexual violence**

The Court considered that in an interview with a person who states that they have been subjected to torture: (i) the person should be allowed to explain freely what he or she considers relevant, so that the officials should merely ask questions; (ii) no one should be required to speak of any form of torture if they do not feel comfortable doing so; (iii) during the interview, it is necessary to record the psychosocial history prior to the presumed victim's arrest; a summary of the events narrated by the latter regarding the time of his initial arrest, the circumstances, place and conditions during his time in State custody, the

72 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 143

73 Cf. Case of Veliz Franco v. Guatemala, supra, para. 187.

74 Cf. Case of Veliz Franco v. Guatemala, supra, paras. 188, 208, 210 and 213.

75 Cf. Case of Espinoza Gonzáles et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 289, para. 272.

76 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 278.

ill-treatment or torture presumably suffered, as well as the methods presumably used to this end, and (iv) the detailed statement should be recorded and transcribed. In cases in which the alleged torture included acts of violence or rape, the presumed victim must consent to the recording.[77]

Also, in the case of the interview with a presumed victim of acts of violence or rape, the statement must be taken in a comfortable and secure environment that provides privacy and creates trust, and must be recorded in a way that avoids or limits the need to repeat it. This statement must contain, with the consent of the presumed victim: (i) the date, time and place of the act of sexual violence perpetrated, including a description of the place where the act took place; (ii) the name, identity and number of perpetrators; (iii) the nature of the physical contacts suffered by the victim; (iv) whether weapons or tethers were used; (v) whether medication, drugs, alcohol or other substances were involved; (vi) the way in which the clothes were removed, if applicable; (vii) details of the sexual activities attempted or perpetrated against the presumed victim; (viii) whether condoms or lubricants were used; (ix) whether there were other conducts that could alter the evidence, and (x) details of the symptoms suffered by the presumed victims since that time.[78]

The Court also indicated that, in cases where there are indications of torture, the medical examination of a potential victim of torture must be performed with prior informed consent, without the presence of law enforcement agents or other State agents, and the corresponding reports must include the following elements, at least:

> (a) The circumstances of the interview: name of the subject and the name and affiliation of those present; the exact time and date; location, nature and address of the institution (including, where appropriate, the room) where the examination is being conducted (e.g., detention center, clinic, house); circumstances of the subject at the time of the examination (e.g., nature of any restraints on arrival or during the examination, presence of security forces during the examination, demeanor of those accompanying the prisoner, or threatening statements to the examiner.); and any other relevant factors;
> (b) History: detailed record of the subject's story as given during the interview, including alleged methods of torture or ill-treatment; times when torture or ill-treatment is alleged to have occurred and all complaints of physical and psychological symptoms;
> (c) Physical and psychological examination: record of all physical and psychological findings on clinical examination, including appropriate diagnostic tests and, where possible, color photographs of all injuries;
> (d) Opinion: interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill-treatment. A recommendation for any necessary medical or psychological treatment and/ or further examinations, and
> (e) Authorship: the report shall clearly identify those carrying out the examination and shall be signed.[79]

The Court also established that, in cases of violence against women, on becoming aware of the alleged acts, a complete and detailed medical and psychological examination must be made immediately by appropriate trained personnel of the sex indicated by the victim, informing the victim that they may be accompanied by a person they trust if they so wish. This examination must be performed in accordance with protocols specifically addressed at recording evidence in cases of gender-based violence.[80]

In addition, the Court considered and cited the Istanbul Protocol, when indicating that, in the investigation of cases of torture, "the timeliness of [the] medical examination is particularly important" and that it "should be undertaken regardless of the length of time since the torture." However, it cited the Protocol again when noting that "[d]espite all precautions, physical and psychological examinations by their very nature may re-traumatize the patient by provoking or exacerbating symptoms of post-traumatic stress by reviving painful effects and memories."[81]

In this regard, the Court recalled that, in cases of sexual violence, the investigation should try, insofar as possible, to avoid the presumed victim being re-victimization or re-experiencing a deeply traumatic event. In addition, it stressed that, with regard to examinations of sexual integrity, the World Health

77 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 248.

78 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 249.

79 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 251.

80 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 252.

81 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 255.

Organization has established that the gynecological appraisal must be made as soon as possible. In this regard, the Court considered that the gynecological and anal appraisal should be made, if this is considered appropriate and with the prior and informed consent of the presumed victim, during the first 72 hours after the assault, based on a specific protocol for attention to victims of sexual violence. Nevertheless, the gynecological assessment can be made after this, with the consent of the presumed victim, because evidence can be found some time after the act of sexual violence, particularly as a result of the development of technology in the area of forensic investigation. Consequently, the time limits established for performing an examination of this nature must be considered as a guideline, and not as a strict policy. Thus, the relevance of a gynecological assessment must be considered based on a case-by-case analysis, taking into account the time that has elapsed since the moment at which it is alleged that the sexual violence occurred. The Court therefore considered that the appropriateness of a gynecological assessment must be justified in detail by the authority requesting it and, if it is not appropriate or if the presumed victim has not given their informed consent, the examination must be omitted; however, this must never serve as an excuse to discredit the presumed victim and/or avoid an investigation.[82]

The Court also considered that the obligation of independence calls for the doctor to have complete freedom to act in the interests of the patient, and means that doctors must use the best medical practice, whatever the pressure they may be subject to, including any instructions that their employers, the prison authorities, or the security forces may give them. In this regard, the State has the obligation to refrain from obliging doctors to compromise their professional independence in any way. Although it is not sufficient to affirm that, since some doctors are State officials, they are not independent, the State must ensure that their contract conditions grant them the required professional independence to issue their clinical opinions free of pressure. Forensic physicians also have the obligation to be impartial and objective when assessing the person they are examining.[83]

- **Investigation standards in cases of violence deaths in the custody of State agents**

In addition to the guidelines established by this Court and the international standards in cases of violent deaths, the Court found it pertinent to emphasize that, in cases of deaths in the custody of State agents, the measures taken by the State must be guided by certain specific standards, *inter alia*: (i) a complete, impartial and independent investigation *ex officio*, taking into account the level of participation of all the State agents; (ii) the investigation must be given a certain degree of public scrutiny owing to the possible public interest because of the rank of the agents presumed to be involved; (iii) prompt intervention at the scene of the incident and appropriate handling of the scene of the crime, as well as preserving this in order to protect all the evidence, as well as ballistic tests when firearms have been used, especially by State agents; (iv) determination of whether the body has been touched or moved, and of the sequence of events that could have led to the death, as well as a preliminary examination of the corpse to protect any evidence that could be lost in its manipulation and transport, and (v) performance of an autopsy by trained professionals that reveals any evidence indicating presumed acts of torture by State agents.[84]

The Court also noted that investigating a death in detention may reveal a pattern or practice directly or indirectly linked to it. In such situations, the investigation must examine the possible root causes in order prevent this type of incident. In this regard, States must record essential information concerning persons in custody, such as (a) the time and place of their arrest; (b) the state of their health upon arrival at the place of detention; (c) the names of the persons responsible for holding them in custody, or at the time, and (d) the place of their interrogation. All of this must be recorded and made available for judicial or administrative proceedings.[85]

- **Legal assistance and right to defense**

The Court reiterated its case law to the effect that it should be possible to exercise the right of defense as soon as an individual is accused of being the possible perpetrator of, or participant in, a wrongful act, and

82 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 256.

83 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 260.

84 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 254

85 Cf. Case of the Landaeta Mejías Brothers et al. v. Venezuela, supra, para. 271

only ends when the proceedings conclude. To maintain the contrary would entail making the treaty-based guarantees that protect the right of defense – including Article 8(2)(b) – dependent on whether the investigation was at a specific procedural stage, leaving open the possibility that, prior to this, rights could be infringed by arbitrary acts that the accused is unaware of, or those that he is unable to control or contest effectively, which is evidently contrary to the Convention. The right of defense obliges the State, at all times, to treat the individual as a true subject of the proceedings, in the broadest sense of this concept, and not simply an object of them.[86]

The Court has also indicated that assistance must be provided by a legal professional in order to meet the requirements of a technical defense to advise the person subject to proceedings, *inter alia,* about the possibility of filing appeals against acts that affect his or her rights. Preventing this person from having the assistance of a defense counsel signifies severely limiting the right of defense, which results in procedural imbalance and leaves the individual unprotected in the fact of the exercise of the State's punitive powers.[87]

- **Scope of the principle of legality and application in the context of norms that regulate proceedings**

The Court emphasized that, when applying criminal law, the judge is obliged to abide strictly by its provisions, and to observe the greatest rigor to ensure that the conduct of the accused corresponds to the specific definition of the offense, so that the accused is not punished for acts that are not legally wrongful. The wording of offenses requires a clear definition of the wrongful conduct that establishes its elements and allows it to be delimited from acts that are not wrongful or from wrongful acts penalized by non-criminal measures. The Court also underscored that the definition of criminally wrongful acts means that the sphere of application of each act is delimited as clearly as possible; in other words, expressly, precisely, taxatively and previously.[88]

Regarding the application of norms that regulate proceedings, the Court noted that, in the region, there is a tendency towards immediate application (*principio de tempus regit actum*); in other words, to apply the procedural norm as soon as it enters into force. Moreover, in some countries, it is the exception to apply the principle of the most favorable procedural norm to the accused.[89]

The Court considered that the immediate application of norms that regulate proceedings did not violate Article 9 of the Convention, because the reference point is the time at which the procedural act took place and not the time that the criminal act was committed, contrary to (substantive) norms that define offenses and punishments, where the standard of application is precisely the time that the offense was committed. In other words, the acts that form part of proceedings are concluded in keeping with the procedural stage at which they originate and are governed by the relevant norm in force. Consequently, and since proceedings entail a juridical series of acts in constant movement, the application of a norm that regulates the proceedings subsequent to the perpetration of a supposed wrongful act does not violate, *per se*, the principle of legality.[90]

Therefore, the principle of legality, in the sense that a law existed prior to the perpetration of the offense, is not applicable to norms that regulate the proceedings, unless they can have an impact on the definition of acts or omissions that, when the offense was perpetrated, were not wrongful according to the applicable law, or on the imposition of a heavier penalty than the one that existed when the criminal act was perpetrated.[91]

86 Cf. Case of Argüelles et al. v. Argentina. Preliminary objections, merits, reparations and costs. Judgment of November 20, 2014. Series C No. 288, para. 175

87 Cf. Case of Argüelles et al. v. Argentina, supra, para. 177

88 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 61

89 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 67

90 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 69

91 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 70

- **Right to appeal the judgment before a higher judge or court in the case of senior authorities**

When it is presumed that an offense has been committed, the ordinary criminal jurisdiction comes into operation in order to investigate and punish the presumed perpetrators, through the ordinary criminal mechanisms. However, in the case of certain senior authorities, some legal systems have established a different jurisdiction with competence to try them owing to their high-ranking office and the importance of their functions. The designation of the highest organ of justice to try senior public officials is not*, per se*, contrary to Article 8(2)(h) of the American Convention.[92]

The Court noted that the practice of several Member States of the Organization of American States (OAS) allows their senior authorities to file an appeal against an adverse ruling in criminal proceedings against them and, to a lesser extent, some State try them in sole instance. States have recognized this right, although somewhat restrictively, in other words in favor of certain officials of a lower rank, excluding the President and Vice President, or more extensively, establishing this guarantee for a group of authorities of different ranks. It should be noted that many States in the region guarantee the right to appeal the judgment even though they grant competence to a jurisdiction other than the ordinary criminal jurisdiction to try their senior public and/or political officials and, in many cases, the highest court of justice is responsible for this.[93]

The Court also noted that when there is no higher instance than the highest court that can conduct a full review of the adverse judgment, some States in the region have adopted different legal formulas in order to ensure the right to appeal the judgment. Thus, the Court noted that this has been achieved by different means, for example: (a) when a Criminal Chamber of the Supreme Court of Justice conducts the trial in first instance, the plenary of the Supreme Court reviews the appeal; (b) when a specific chamber of the Supreme Court conducts the trial in first instance, another chamber, with a different composition decides the appeal, and (c) when a chamber composed of a certain number conducts the trial in first instance, another chamber composed of a greater number of judges who did not take part in the first instance proceedings, decides the appeal. The Court also observed that the review courts are composed of members who have not heard the case in first instance and that the ruling they issue may modify or revoke the judgment reviewed.[94]

Consequently, the Court verified that most of the OAS Member States accord their senior officials the possibility of appealing the judgment delivered in criminal proceedings. The need for the opinion of dual courts, expressed by the appeal against the adverse judgment, has been recognized by their legal systems.[95]

Article 8(2)(h) of the American Convention establishes the "the right to appeal the judgment to a higher court." The Court has interpreted that, in the absence of a higher court, the superiority of the court that reviews the adverse judgments is understood to be complied with when the plenary or a chamber of the same high collegiate organ, but with a different composition to the one that heard the case originally, decides the appeal, and has the authority to revoke or modify the guilty verdict if it finds this pertinent. Thus, the Court indicated that it can be established, for example, that the trial in first instance will be conducted by the President or a superior collegiate chamber, and the hearing of the appeal will correspond to the plenary of this organ, with the exclusion of those who have already ruled on the case. The Court also verified that this has been the practice of some States in the region. Despite this, the Court found that the State may organize itself as it deems pertinent in order to ensure the right of senior public officials to appeal a judgment.[96]

92 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 88

93 It should be noted that many other States do not prosecute their senior authorities under a special criminal jurisdiction, but rather under the ordinary jurisdiction established for the general public, once the competent authority has lifted the privilege of immunity and authorized the admissibility of the investigation and criminal proceedings. Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 97

94 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 98

95 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 99

96 Cf. Case of Liakat Ali Alibux v. Suriname, supra, para. 105

- **Military criminal jurisdiction**

The Court reiterated its abundant and consistent case law concerning the intervention of the military jurisdiction in trying acts that constitute human rights violations.[97] In this regard, it recalled that, under the democratic rule of law, the military criminal justice system must have a restricted and exceptional scope and be addressed at the protection of special juridical interests related to the functions inherent to the military forces.[98] Accordingly, the Court reiterated that the military justice system should only try members of the Armed Forces on active duty for the perpetration of offenses or misdemeanors that, owing to their intrinsic nature, impair legal rights of a military nature.[99] Taking into account the nature of the crime and the right impaired, the military criminal jurisdiction is not the competent jurisdiction to investigate and, where appropriate, try and punish the perpetrators of human rights violations; rather the prosecution of those responsible always corresponds to ordinary justice.[100]

- ***Guarantees of due process applicable in migratory proceedings involving children (Articles 8 and 19)***

To guarantee equal access to justice, due process, and that the best interests of the child have been the main consideration in all decisions adopted, the Court asserted that States must ensure that the administrative or judicial proceedings in which decisions are taken on the rights of child migrants are adapted to their needs and accessible to them.[101]

  - **The right of the child to be notified of the existence of proceedings and of the decision adopted in the context of immigration proceedings**

The Court affirmed that all migrants have the right to be notified of proceedings against them because, otherwise, it would not be possible to guarantee their right to defend themselves; and also of the final decision so that they may exercise the right to appeal that decision. In the case of child migrants, this extends to any kind of proceedings that involve them. Accordingly, the existence of staff trained to communicate to the child, according to the stage of development of its cognitive capacities, that its situation is being submitted to administrative or judicial consideration, will ensure that the child is able to exercise the right of defense, in the sense of understanding what is happening and being able to give his or her opinion as pertinent.[102]

  - **The right of the child that immigration proceedings are heard by a specialized judge**

In migratory matters, the Court considered that States must ensure that those who intervene in proceedings involving children are properly trained, so that they are able to identify the special needs for protection of the child, in accordance with his or her best interests.[103]

  - **The right of the child to be heard and to participate in the different procedural stages**

In the Court's opinion, States have the obligation to enable the child to take part in each and every stage of the immigration proceedings, and to ensure that they have the right to be heard, with due guarantees and within a reasonable time, by the competent authority in order that a decision may be taken that respects their best interests. In particular, States must also take pertinent measures to weigh non-verbal forms of communication; ensure that the child's participation takes place in an environment that is not intimidating, hostile, insensitive or inappropriate to the child's age, and that the staff responsible for receiving the child's statement are duly trained.[104]

97 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 442.

98 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 442.

99 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 442.

100 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 443.

101 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 114 and 115.

102 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 117 to 119.

103 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 120 and 121.

104 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 122 and 123.

- **The right to be assisted without charge by a translator and/or interpreter**

The Court found that, in order to guarantee the right to be heard, States must ensure that children are assisted by a translator or interpreter if they are unable to understand or do not speak the language of the entity taking the decision.[105]

- **Real access of children to consular assistance and communication**

In the case of children, the Court interpreted that subparagraphs (e) and (h) of Article 5 of the Vienna Convention on Consular Relations, read in light of the Convention on the Rights of the Child, imposes the obligation of the consular officer to safeguard the interests of the child, in the sense of ensuring that the administrative or judicial decisions taken in the receiving country have evaluated the child's best interests and taken them into consideration.[106]

Owing to the special vulnerability of children who are outside their country of origin and, especially, of those who are unaccompanied or separated, access to communication with consular authorities and to consular assistance becomes a right that has particular relevance and that must be guaranteed and implemented as a priority by all States. This is particularly so because of its possible implications for the process of gathering information and documentation in the country of origin, as well as to ensure that voluntary repatriation is only ordered if this is recommended as the result of proceedings held with due guarantees to determine the best interests of the child, and once it has been verified that this can be carried out in safe conditions, so that the child will receive care and attention on his or her return.[107]

- **The right of the child to be assisted by legal counsel and to communicate freely with counsel**

The Court considered that States have the obligation to ensure legal assistance to any child involved in immigration proceedings by the offer of free State legal representation services.[108] Moreover, it specified that this type of legal assistance must be specialized, as regards both the rights of the migrant as well as in attention specifically related to the child's age, in order to guarantee real access to justice to the child migrant and to ensure that his or her best interests prevail in any decision taken.[109]

- **The duty to appoint a guardian in the case of unaccompanied or separated children**

The Court found that administrative or judicial proceedings involving children who are unaccompanied or separated from their family require the appointment of a guardian. Indeed, States have the duty to appoint a guardian for children who are identified as being unaccompanied or separated from their family, even in border areas, as promptly as possible, in order to ensure that the legal, social, educational, health care, psychological and material needs of the child are met.[110]

- **The right that the decision adopted has assessed the child's best interests and is duly reasoned**

The Court considered it essential that all decision taken in immigration proceedings involving children be duly reasoned and, particularly, that the decision reveal how the opinions of the child were taken into account, and also the way in which his or her best interests were evaluated.[111]

105 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 124 and 125.

106 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 127.

107 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 128.

108 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 130.

109 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 131.

110 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 132 to 136.

111 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 137 to 139.

- **The right of children to appeal the decision before a higher court with suspensive effects**

The Court reaffirmed the right of everyone to appeal all final decisions adopted in immigration proceedings, whether administrative or judicial in nature, especially those that order expulsion or deportation from a country or that deny permission to enter and remain there. In other words, in the face of an adverse decision, the individual must have the right to submit the case to review before the competent judicial authority and appear before the latter to this end. If the decision was adopted by the administrative authority, the review by a judge or court is a basic requirement to ensure adequate oversight and analysis of administrative decisions that affect fundamental rights.[112]

The Court considered that this review instance must permit, among other matters, ascertaining whether the decision gave due weight to the principle of the best interests of the child. In order to provide effective protection to the rights of child migrants, the Court found that the judicial remedy contesting a migratory decision must have suspensive effects, so that if a deportation order is involved, it must be suspended until the court before which the appeal was filed has issued a judicial ruling.[113]

- **Reasonable time for the duration of proceedings involving a child**

Owing to the particular degree of harm that these types of proceedings could cause to a child, the Court emphasized that the duration of the proceedings up until the adoption of the final decision must respect a reasonable time, which means that the administrative or judicial proceedings relating to the protection of the human rights of the child "must be handled with exceptional diligence and promptness by the authorities." This not only reveals the need to defend and to protect the best interests of the child, but also ensures that the situation of uncertainty is maintained for the least possible time in order to lessen the impact on the child's physical, mental and emotional integrity to the greatest extent possible. Nevertheless, the duration should be sufficient to ensure that the child is heard adequately.[114]

c) Protection of the right of the child, whatever their migratory situation (Articles 1(1), 2 and 19)

Regarding the provisions of Article 1(1) of the Convention, establishing the State's obligation to respect and ensure the human rights of "all persons subject to [the] jurisdiction" of the State in question, the Court interpreted that this refers to all those who are on its territory or who, in any way, are subject to its authority, responsibility or control – in this case, by attempting to enter this territory – without discrimination based on any of the reasons stipulated in the said article. In this regard, the Court considered that the motive, cause or reason why the person is on the territory of the State had no relevance as regards the State's obligation to respect that person and to ensure that his human rights are respected. In particular, whether or not that person's entry into the State's territory was in keeping with its laws has no significance whatsoever in this regard. The respective State must, in all circumstances, respect the said rights, because they are based, precisely, on the attributes of the human persona; in other words, regardless of whether or not the person is a national or resident of its territory, or is there temporarily or in transit, or legally or in an irregular migratory situation.[115]

With regard to the obligation to adopt measures of protection in favor of all children, based on their condition as minors, which has an impact on the interpretation of all the other rights when the case relates to children, the Court understood that the protection due to the rights of the child, as subjects of law, must take into consideration their intrinsic characteristics and the need to foster their development, offering them the necessary conditions to live and develop their aptitudes taking full advantage of their potential. In this regard, it emphasized that Article 19 of the Convention is one of the few established on

112 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 140 to 142.

113 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 140 to 142.

114 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 143.

115 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 61 and 62.

the basis of, or taking into consideration, the specific and characteristic condition of the beneficiary. Thus, children exercise their own rights progressively as they develop a greater level of personal autonomy. For this reason, this norm stipulates that the pertinent measures of protection for children must be special or more specific than those established for the rest of the population; namely, adults. In this regard, the Court stressed that the Convention and the Declaration recognize a preferential treatment for children, precisely because of their special vulnerability and, in this way, endeavor to provide them with the adequate mechanism to achieve the equality before the law enjoyed by adults owing to their condition as such.[116]

The Court underscored that his article is also almost the only one in the Convention that recognizes an obligation not only for the State, but also for society and the family. Evidently, it is with regard to the latter that the State has the obligation to ensure that they adopt the measures of protection that all children require from them. Hence, the child's right to the adoption of the said measures of protection is established in broader terms than other rights recognized in the Convention because, in this case, it is not only a matter of the State respecting a human right or ensuring that it is respected on its territory and by all persons subject to its jurisdiction by adopting the pertinent measures, but also of the respective family and society adopting such measures. Thus, the measures of protection that the child requires, owing to its condition as such, and that are adopted by the State may, in themselves, be insufficient and must, therefore, be supplementary to those that society and the family must adopt. From this point of view, the status of the child is not limited to the sphere of its relationship with the State, but rather extends to the relationship that he or she has or should have with the family and with society as a whole; a relationship that the State must enable and guarantee and, in the case of migrant children, should ensure that adults are not using them for their own migratory purposes and that if, despite everything, this should occur, that the children do not end up prejudiced.[117]

A child is any persons under 18 years of age. The Court affirmed that, when designing, adopting and implementing their immigration policies for persons under 18 years of age, States must accord priority to a human rights-based approach crosscut by the rights of the child and, in particular, the comprehensive protection and development of children should prevail over any consideration of their nationality or migratory status, in order to ensure the full exercise of their rights.[118]

The Court understood that where the protection of the rights of the child and the adoption of measures to achieve this protection is involved, the following guiding principles of the Convention on the Rights of the Child should crosscut and be implemented throughout the system of comprehensive protection: the principle of non-discrimination, the principle of the best interests of the child, the principle of respect for the right to life, survival and development, and the principle of respect for the opinion of the child in any procedure that involves him or her, in order to ensure the child's participation.[119]

d) Proceedings to identify needs for international protection of child migrants and, if appropriate, to adopt special measures of protection (Articles 1(1), 2, 19 and 22(7))

Owing to the wide range of situations that can lead children to displace from their country of origin,[120] the Court underlined the relevance of distinguishing between those who emigrate in search of

116 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 66.

117 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 67.

118 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 68.

119 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 69.

120 Children migrate internationally for very varied reasons: to seek opportunities, based on either economic or educational motives; for family reunification purposes, in order to reunite with family members who have migrated previously; because of gradual or sudden environmental changes that have had an adverse impact on their life or their living conditions; owing to the effects of organized crime, natural disasters, domestic abuse or extreme poverty; because they are transported in the context of a situation of exploitation, including child trafficking; to flee their country either owing to the well-founded fear of being persecuted for certain reasons or because their life, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive human rights violations or other circumstances that have seriously disturbed public order. Although children usually travel with their parents, members

opportunities to improve their standard of living, and those who require some kind of international protection, including but not limited to protection for refugees or asylum-seekers.[121] In this regard, it affirmed that, in order to comply with their international undertakings, States are obliged to identify alien children who require international protection under their jurisdiction – either the protection granted to refugees or some other type – by an initial evaluation that guarantees safety and privacy, in order to provide them with the required adequate individualized treatment by the adoption of special measures of protection. The Court considered that the establishment of procedures to identify the needs for protection is a positive State obligation, and failing to institute them represents a lack of due diligence.[122]

The Court indicated that the initial evaluation process should include effective mechanisms for obtaining information following the child's arrival at the entry place, post or port, or as soon as the authorities become aware of his or her presence in the country, in order to determine the child's identity and, if possible, that of the parents and siblings, in order to transmit this to the State agencies responsible for making the evaluation and providing the measures of protection, based on the principle of the child's best interests.[123]

During the initial stage of identification and assessment, the Court considered that, apart from offering certain basic guarantees, the procedural mechanisms that the States adopt must be aimed, in accordance with the practice generally followed, at achieving the following essential priority objectives: (i) treatment in keeping with the child's condition as such and, in case of doubt about the age, assessment and determination of this; (ii) determination of whether the child is unaccompanied or separated; (iii) determination of the nationality of the child and, if appropriate, his or her statelessness; (iv) obtaining information on the reasons for the child's departure from the country of origin, on his or her separation from the family if this is the case, on the child's vulnerabilities and any other element that reveals or refutes the need for some type of international protection, and (v) adoption of special measures of protection, if necessary and pertinent in view of the best interests of the child. The information should be collected during the initial interview and recorded adequately so as to ensure its confidentiality.[124]

The Court considered it crucial that States define clearly and within their institutional structure, the required assignment of responsibilities, respecting the competences of the relevant State organs and, if necessary, adopt pertinent measures to achieve effective inter-institutional coordination in the determination and adoption of the special measures of protection required, providing the competent agencies with adequate budgetary resources and offering specialized training to their staff.[125]

e) Right to freedom of movement and residence (Article 22)

- **The right to seek and receive asylum *(Article 22(7))***

The Court has recognized previously that both the American Convention on Human Rights in Article 22(7) and the American Declaration of the Rights and Duties of Man in Article XXVII have established the subjective right of all persons, including children, to seek and receive asylum. In the Advisory Opinion, by a harmonious interpretation of the domestic and international laws that permeate, in a converging and complementary manner, the content of the right established in Articles 22(7) of the Convention and XXVII of the Declaration, and taking into account the specific standards of interpretation contained in

of their extended family, or other adults, nowadays a growing and significant number are migrating autonomously and unaccompanied. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 35.

121 The expression "international protection" includes: (a) the protection received by asylum-seekers and refugees based on international agreements or domestic laws; (b) the protection received by asylum-seekers and refugees based on the expanded definition under the Cartagena Declaration; (c) the protection received by any alien based on international human rights obligations and, in particular, the principle of non-refoulement and the so-called supplementary protection or other forms of humanitarian protection, and (d) the protection received by stateless persons pursuant to the relevant international instruments. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 37.

122 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 82.

123 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 84.

124 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra paras. 86 to 106.

125 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 107.

Article 29 of the American Convention, the Court was of the opinion that the right to seek and to receive asylum in the context of the inter-American system is considered an individual human right to seek and receive international protection on foreign territory, including in this expression refugee status according to the pertinent instruments of the United Nations or the corresponding domestic laws, and asylum in accordance with the different inter-American conventions on this matter.[126]

In addition, the Court noted that, over recent decades, the evolution of refugee law has given rise to State practices consisting in granting international protection as refugees to persons who flee their countries of origin owing to generalized violence, foreign aggression, internal conflicts, the massive violation of human rights, or other circumstances that have seriously disturbed public order. Based on the progressive development of international law, the Court considered that the obligations arising from the right to seek and receive asylum are in effect with regard to those persons whose situation is in keeping with the elements of the Cartagena Declaration's expanded definition, and this responds not only to the dynamics of forced displacement that gave rise to this definition, but also satisfies the challenges to protection deriving from other displacement patterns that occur nowadays. This criterion reflects a regional tendency to consolidate a more inclusive definition that must be taken into account by the States in order to accord the protection of refugee status to persons in evident need of international protection.[127]

In the terms of Articles 1(1) and 2 of the American Convention, the right to seek and receive asylum entails certain specific obligations on the part of the receiving State, which include: (i) to allow children to request asylum or refugee status; thus, they may not be rejected at the border without an adequate and individualized analysis of their requests, with due guarantees, by the respective procedure; (ii) not to return children to a country in which their life, liberty, safety or integrity may be at risk, or to a third country from which they may later be returned to the State where they suffered this risk, and (iii) to grant international protection when children qualify for this and to grant the benefit of this recognition to other members of the family, based on the principle of family unity. All the above signifies, as the Court has previously underlined, the corresponding right of those seeking asylum to be ensured a proper assessment of their requests and of the risk that they may suffer in case of return to their country of origin by the national authorities.[128]

If the need for international protection is identified because the elements for determining refugee status have been verified, it is the State's obligation to explain the right to seek and receive asylum in a language that the child can understand, and to refer the child to the relevant entity, either a State institution or an international agency such as UNHCR.[129] In this regard, the Court has previously interpreted that the right to seek and receive asylum, read together with Articles 8 and 25 of the American Convention, guarantees effective access to a fair and efficient procedure to determine a person's status as a refugee, so that those applying for refugee status must be heard by the State to which they are applying, with due guarantees, using the respective procedure.[130]

- **The principle of *non-refoulement (Article 22(8))***

The Court affirmed that, under the American Convention the principle of *non-refoulement* established in Article 22(8) takes on a particular meaning, even though this provision was included after the paragraph recognizing the individual right to seek and receive asylum, and its meaning and scope is broader than the right included in international refugee law. Thus, the prohibition of *refoulement* established in Article 22(8) of the Convention offers supplementary protection to aliens who are not asylum-seekers or refugees, in cases in which their right to life or freedom is threatened for the reasons described. A reading of the *travaux préparatoires* of the Convention confirms the interpretation made in accordance

126 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra paras. 73 and 78.

127 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 79.

128 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 81.

129 Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 98.

130 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 98.

with the ordinary meaning to be given to the terms of Article 22(8) of the Convention, within the context of this instrument, and in light of its object and purpose.[131]

On analyzing the components of the prohibition of *refoulement* codified in Article 22(8) of the Convention, the Court considers that, based on the interpretation of Article 22 as a whole, the term "alien" included in paragraph 8, should be understood as any person who is not a national of the State in question or who the State does not consider to be a national based on its laws. This covers those persons who are not considered nationals by the State based on its laws, either because they have lost *ex lege* the nationality, or because of a decision to deprive them of this nationality, provided that this automatic loss or State decision does not violate the latter's international human rights obligations. Hence, the Court considered that, if a dispute existed with regard to the conformity of this decision or loss with the obligations derived from the American Convention and, in particular, with the prohibition of arbitrary deprivation of nationality or other applicable norms, the consideration that the person is a national should prevail until a final decision has been issued in this regard and, consequently, that person cannot be expelled.[132]

Regarding the terms of Article 1(1) of the Convention, the Court clarified that the fact that a person is subject to the jurisdiction of the State is not the same as being on its territory. Consequently, the principle of *non-refoulement* can be invoked by any alien regarding whom the State in question is exercising authority or who is under its control, regardless of whether he is on the land or rivers, or in the maritime zone or air space of the State.[133]

Regarding the interception of asylum-seekers in international waters so as not to allow their requests to be evaluated in potential receiving States, the Court understands that this practice is contrary to the principle of *non-refoulement*, because it does not permit the evaluation of each person's specific risk factors.[134]

Regarding the risk to the right to life and freedom of the alien, the Court clarified that this must be real; that is, it must be a predictable consequence. In this regard, the State must make an individualized assessment to verify and evaluate the circumstances described by the person who asserts that he may suffer harm to his life or freedom in the country to which it is intended to return him – in other words, his country of origin – or that, if he is returned to a third country, he runs the risk of being sent, subsequently, to the place where he runs that risk. If his account is credible, convincing and coherent as regards his probable situation of risk, the principle of *non-refoulement* should be applied.[135]

In the case of risks to violation of the rights of the child, the Court considered that these should be understood and analyzed focusing on age and gender, as well as in keeping with the rationale of the Convention on the Rights of the Child, which establishes the effective and interdependent guarantee of civil and political rights and the progressive full effectiveness of economic, social and cultural rights, within the framework of which the right to life also incorporates the component of adequate development and survival.[136].

The Court concluded that the prohibition to return, expel, deport, repatriate, reject at the border, or not to admit or in any way transfer or remove children to a State where their life, safety and/or freedom are at risk of violation due to persecution or the threat of persecution, generalized violence or massive violations of human rights, among other factors, as well as where they are in danger of being subjected to torture or other cruel, inhuman or degrading treatment, or to a third State from which they may be sent to one in which these risks may be encountered, receives additional protection in other human rights norms. And this protection extends to other types of gross human rights violations, understood and analyzed from a perspective of age and gender, as well as under the rationale of the Convention on the

131 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 217.

132 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 218.

133 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra para. 219.

134 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 220.

135 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 221.

136 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 222.

Rights of the Child, which makes determination of the best interests of the child accompanied by the due guarantees a central aspect when adopting any decision concerning the child and, especially, if the principle of *non-refoulement* is involved.[137]

The Court found that the competence of the domestic authorities to decide who may remain on their territory and, ultimately, their power to return a person to his country of origin or to a third country is conditioned by the obligations derived from international law and, in particular, refugee law, international human rights law, the prohibition of torture, and Article 22(8) of the American Convention. Indeed, the principle of *non-refoulement* is an integral part of these different branches of international law in which it has been developed and codified. However, in each of these contexts, the content of the principle of *non-refoulement* has a particular sphere of personal and substantial application and specific correlative obligations, which must be understood to be complementary in nature, in the terms of Article 29 of the American Convention and the *pro persona* principle. In the Court's opinions, all things considered, this means making the most favorable interpretation for the effective enjoyment and exercise of the fundamental rights and freedoms by applying the norm that accords the greatest protection to the human being.[138]

The Court considered that complementary protection is a normative development consequent with the principle of *non-refoulement*, by which States safeguard the rights of those who do not qualify as refugees or for any other migratory category, but who cannot be returned. This complementary protection should recognize the basic rights of the persons protected.[139]

The Court interpreted that, under the provisions of the Convention of the Rights of the Child and other norms for the protection of human rights, any decision about the return of a child to the country of origin or to a safe third country may only be based on their best interests, bearing in mind that the risk of their rights being violated may be manifested in specific and particular ways owing to their age.[140]

- **Proceedings to ensure the right of children to seek and receive asylum *(Articles 22(7) and 22(8) in relation to Articles 19, 8 and 25)***

To ensure the practical effects of the right to seek and receive asylum established in Articles 22(7) of the American Convention and XXVII of the Declaration and to guarantee its exercise in conditions of equality and without discrimination, the Court reiterated the overriding requirement that States design and implement fair and efficient procedures to determine whether the applicant meets the criteria to exercise this right and to request refugee status, bearing in mind that the relevant definitions include subjective and objective elements that can only be ascertained by means of individualized procedures that permit a proper examination of the asylum request and that prevent *refoulement* contrary to international law.[141]

The Court affirmed that the State obligation to institute and follow fair and efficient procedures in order to identify potential asylum-seekers, and to determine the refugee status of those who meet the requirements to obtain international protection, should also incorporate the specific guarantees developed in light of the comprehensive protection due to all children, applying fully the guiding principles and, especially, the principle of the best interests of the child and his or her participation.[142]

The Court considered that this obligation means that the State must: not impede entry into the country; if risks and needs are identified, give the person access to the State entity responsible for granting asylum or recognition of refugee status or to other procedures that are appropriate for providing specific protection and attention according to the circumstances of each case; accord priority processing to requests for asylum made by children as the main applicant; the respective entity should have reception staff who can examine the child to determine the state of his or her health; register and interview the

137 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 233.

138 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 234.

139 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 240.

140 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 231 and 242.

141 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 244.

142 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 246 and 247.

child endeavoring not to cause further trauma or revictimization; have available a place to lodge the applicant if he or she does not already have accommodation, and issue an identity document to avoid *refoulement;* assess the case, with sufficient flexibility as regards the evidence; assign an independent and trained guardian in the case of unaccompanied or separated children; if refugee status is granted, implement family reunification procedures, if necessary in view of the best interests of the child and, lastly, try to achieve voluntary repatriation, resettlement or social integration as a durable solution, based on the determination of the child's best interests.[143]

f) Protection of the family, right to family life, and rights of the child in relation to proceedings on the expulsion or deportation of parents for migratory reasons (Articles 11, 17 and 19)

The Court identified two conflicting interests in cases in which a decision must be taken on the eventual expulsion of one or both parents: (a) the authority of the State concerned to implement its own immigration policy to achieve legitimate purposes that ensure general well-being and the exercise of human rights, and (b) the right of the child to the protection of the family and, in particular, to enjoy family life by preserving family unity insofar as possible. In order to weigh the interests in conflict, the Court found that it was necessary to make an assessment of whether the measure is established by law and complies with the requirements of (a) suitability; (b) necessity, and (c) proportionality; in other words, it must be necessary in a democratic society.[144]

The Court indicated that, in order to assess the conflicting interests, it is necessary to consider that an expulsion measure may prejudice a child's life, well-being and development; hence, the child's best interests must be a primary consideration. Consequently, given the fact that, in abstract terms, the expulsion of one or both parents would in almost no circumstance be in the best interests of the child, but rather would harm them, the State concerned has the obligation to weigh, adequately and strictly, the protection of the family unit against the legitimate interests of the State, and must determine, in the context of each specific case, that the expulsion of one or both parents does not lead to an abusive or arbitrary interference in the family life of the child.[145]

The Court determined that in those situations in which the child has a right to the nationality of the country from which one or both of the parents may be expelled owing to their irregular migratory situation, or in which the child meets the legal requirements to reside there on a permanent basis, the State may not expel one or both parents owing to immigration offenses of an administrative nature, because the right to family life of the child is sacrificed in an unreasonable or excessive manner.[146]

The Court also affirmed that any administrative or judicial organ that must decide on family separation owing to expulsion or deportation based on the migratory status of one or both parents must, when weighing all the factors, consider the particular circumstances of the specific case, and guarantee an individual decision.[147] The Court found it essential that, when making this assessment, States ensured the right of children to have the opportunity to be heard based on their age and maturity and that their views are duly taken into account in those administrative or judicial procedures in which a decision may be taken that entails the deportation or expulsion of their parents. If the child is a national of the receiving country, but only one or neither of its parents is, the child must be heard in order to understand the impact that the expulsion of the parent may have on him or her. Also, granting the child the right to

143 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 261.

144 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 275 to 280.

145 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 278.

146 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 280.

147 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 281.

be heard is essential in order to determine whether there is an alternative that is more appropriate to the child's best interests.[148]

g) The principle of equality and non-discrimination and the right to equality before the law

The Court indicated that, regarding the concept of discrimination, the definitions contained in Article 1(1) of the International Convention on the Elimination of All Forms of Racial Discrimination and Article 1(1) of the Convention on the Elimination of All Forms of Discrimination Against Women lead to the conclusion that discrimination is any distinction, exclusion, restriction or preference based on the prohibited reasons which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field.[149]

The Court reiterated its case law concerning the obligation of States to abstain from carrying out actions that are in any way directly or indirectly designed to create situations of discrimination *de jure* or *de facto*, as well as the obligation to take affirmative action in order to reverse or change any discriminatory situations in their societies that prejudice a specific group of persons.[150]

Taking into account the interpretation criteria stipulated in Article 29 of the American Convention and in the Vienna Convention on the Law of Treaties, the Court considered that ethnic origin is a one of the prohibited criteria for discrimination that is included in the expression "any other social condition" of Article 1(1) of the American Convention. The Court recalled that Article 1(1) of the American Convention prohibits discrimination in general, and includes categories that may not be discriminated against, and indicated that the ethnic origin of an individual is a category protected by the Convention. The Court took into account that ethnic group refers to communities of individuals who share, among other aspects, characteristics of a socio-cultural nature, such as cultural, linguistic, spiritual affinities and historical and traditional origins. Indigenous peoples fall within this category, and the Court has recognized that they have specific characteristics that constitute their cultural identity, such as their customary law, their economic and social characteristics, and their values, practices and customs.[151]

The duty to provide every individual with the equal and effective protection of the law without discrimination establishes a limit to the State's authority to determine those who are its nationals. Moreover, the "illegal status" of the alien who "is in an irregular migratory situation" refers to aliens in an irregular situation, and not to their children. Consequently, it cannot be justified, *per se*, to establish a distinction between individuals born on Dominican territory who are the children of aliens, based on the different situation of their parents as regards their regular or irregular migratory status. This is because the distinction is not made based on the situation of the persons concerned, but rather on the different situation of their parents. Therefore, the mere allusion to the "illegal status" of the parents of those affected by the distinction is insufficient when assessing the objective sought by the distinction and, thus, its reasonableness and proportionality. In this case, and for the reasons indicated, the Court understood that the arguments set out in judgment TC/0168/13, which distinguished between those born on Dominican territory based on the migratory status of their parents were insufficient. Hence, the Court found no reason to differ from its opinion in its judgment in the case of the Yean and Bosico Girls *v.* Dominican Republic, that "the migratory status of a person is not transmitted to his or her children." In addition, the Court indicated that the introduction of the criterion of irregular permanence of the parents as an exception to the acquisition of nationality by *ius solis* was discriminatory in the Dominican Republic, when it was applied in a context that had previously been described as discriminatory towards the Dominican population of Haitian origin. Furthermore, this was a group that was disproportionately

148 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 282.

149 Cf. Case of Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile, supra, para. 198.

150 Cf. Case of Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile, supra, para. 201.

151 Cf. Case of Norín Catrimán et al. (Leaders, members and activist of the Mapuche Indigenous People) v. Chile, supra, paras. 202 to 206.

affected by the introduction of the differentiated criteria, which resulted in a violation of the right to equality before the law.[152]

The Court established that Law No. 169-14 created an obstacle to the full exercise of the victims' right to nationality. Thus, the law considered them aliens not only conceptually, but also established the possibility that, if they presented the corresponding request within 90 days, they could become part of a plan to "regularize aliens" established by Decree No. 327-13. And, this could lead to a "naturalization" process that, by definition, is contrary to the automatic acquisition of nationality based on having been born on the State's territory. Even though the foregoing could result in the individuals in question "acquiring" Dominican nationality, this would be the result of treating them as aliens, which is contrary to full respect for the right to nationality to which they should have had access since birth. Consequently, submitting the said individuals, for a limited time only, to the possibility of acceding to a process that could eventually result in the "acquisition" of a nationality that, in reality, they should already have, entailed establishing an obstacle to the enjoyment of their right to nationality.[153]

- **Failure to acknowledge identity documents**

In the case of the *Expelled Dominicans and Haitians v. Dominican Republic,* the Court determined that the actions of the State agents signified failure to acknowledge the identity of the victims by not allowing them to identify themselves or not considering the documents they presented. This situation affected other rights, such as the right to a name, to recognition of juridical personality and to nationality that, as a whole, impaired the right to identity.[154] In addition, considering the context in which the facts of the case occurred, the Court found that, in violation of the obligation not to discriminate, the said violations were based on a pejorative treatment based on the personal characteristics of the victims that, in the opinion of the authorities concerned at the time, denoted their Haitian origin.[155]

h) Obligation to adopt domestic legal provisions (Article 2)

- **Domestic legal provisions contrary to the right to equal protection of the law**

In the case of the *Expelled Dominicans and Haitians v. Dominican Republic,* the Court determined that even when a norm or measure of a general nature has not been applied directly to the presumed victims, it may be pertinent to examine it in the context of a contentious case if, based on the circumstances of the case, the general norm or measure may produce a violation, even indirectly, on the rights of the presumed victims. In this case, by establishing a general retroactive policy that, based on grounds that were contrary to the right to equal protection of the law, would deprive the presumed victims of legal certainty in the enjoyment of certain rights, judgment TC/0168/13, which was binding for all the public authorities and organs of the State, violated Article 2 of the American Convention on Human Rights. It should be noted that the Court took into account that judgment TC/0168/13 was based on an interpretation of the law that established a distinction between individuals that, since it was not duly justified, was contrary to the right to equal protection of the law. Legal certainty of the right to nationality was infringed, as well as of the rights to recognition of juridical personality, to a name and, taken as a whole, to identity.[156]

i) Application of Article 53 of the Court's Rules of Procedure

- **Reprisals for statements or legal defense before the Inter-American Court**

The Court indicated that Article 53 of its Rules of Procedure establishes that "States may not prosecute

152 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, paras 317 and 318

153 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 324

154 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 274.

155 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 275.

156 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, paras. 310, 313 to 317 and 325

[…] presumed victims, or […] implement reprisals against them […] on account of their statements […] or their legal defense before the Court." The Court recalled that States have the power to institute proceedings to penalize or annul acts contrary to their laws. However, Article 53 of the Rules of Procedure prohibits, in general, the "prosecut[ion]" or the implementation of "reprisals" on account of "statements or [the] legal defense" before the Court. The Court indicated that the purpose of this norm is to ensure that those who intervene in the proceedings before the Court may do so freely, in the certainty that it will not prejudice them.

Consequently, in this case, the Court determined that the reason behind certain administrative investigations relating to some victims, which had resulted in judicial proceedings, was the fact that the State was being sued in the international sphere, and this had impaired the safety of the procedural activity that Article 53 sought to protect. The Court indicated that "legal proceedings arising from a violation of Article 53 of the Rules of Procedure cannot be considered valid by the Court, because this provision could not achieve its purpose if proceedings instituted in violation of the provision were found to be legitimate." The Court therefore decided that, "notwithstanding the power of the State to take measures under its domestic laws and its international undertakings to punish acts that are contrary to domestic laws, the above-mentioned administrative and judicial proceedings cannot represent an obstacle to compliance with any of the measures of reparation ordered in this judgment." The Court also ordered the State to adopt the necessary measures to annul the said administrative investigations, as well as the civil and criminal proceedings that were underway.[157]

j) Evidence

- **Standards of factual evidence related to omissive conduct of the State**

In view of the characteristics of the case of the *Expelled Dominicans and Haitians v. Dominican Republic,* the Court gave particular consideration to the conditions of poverty and insecurity of the victims, and applied special standards in the assessment of the evidence, because factual circumstances had been argued whose characteristics signified the absence of documentation or registration. Although, normally, the lack of personal documentation or records of administrative or judicial procedures would indicate that the alleged facts did not occur, this cannot be considered to be so in this case, because this absence of documentation or records was part of the factual framework submitted to the Court's consideration and was consistent with the proven context, which also included a systematic pattern of expulsions, even by means of collective deportations or proceedings that did not entail an individualized analysis.[158]

The lack of evidence (undocumented expulsions and difficulties in registering births that could be attributed to the State), could not be assessed as proof that the facts alleged by the presumed victims had not occurred, because they originated precisely from deficiencies in the actions or policies of the State. Consequently, an assessment of the evidence in that sense would have been contrary to the principle that the courts have the duty to reject any pleading that is based on the negligence of the party presenting it (*Nemo auditur propiam turpitudinem alegans).*[159]

The Court found that it would be disproportionate to place on the victims the burden of proving positively, with documentary or other types of proof, the occurrence of facts relating to omissive acts of the State. The Court noted that, owing to the nature of the alleged facts, the State was able to obtain proof of them.[160]

- **Standards of evidence in relation to forced disappearance**

The Court reiterated its case law according to which the forced disappearance of persons constitutes a multiple, complex and permanent violation of different rights established in the American Convention.[161]

157 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, paras. 455 to 457.

158 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 194.

159 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 195.

160 Cf. Case of Expelled Dominicans and Haitians v. Dominican Republic, supra, para. 196.

161 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, paras. 228, 229, 234 and 236.

The Court also repeated that the use of circumstantial evidence, indications and presumptions is legitimate to found a judgment, provided that consistent conclusions about the facts can be inferred from them.[162] The Court emphasized that indicative or presumptive evidence is particularly important in the case of reports of forced disappearance, because this type of violation is characterized by the effort to eliminate any element that allows the detention, whereabouts, and fate of the victims to be verified.[163] The Court recalled that although the burden of proving the facts on which the complaint is based corresponds to the plaintiff, in proceedings on human rights violations the State's defense cannot rest on the impossibility of the plaintiff providing evidence when it is the State that controls the means to clarify acts that have occurred on its territory.[164] The Court also reiterated that, in the investigation of a presumed forced disappearance, State authorities must take into account the characteristic elements of this kind of crime.[165] One of the characteristic elements of a forced disappearance is precisely "the refusal to acknowledge the detention and to reveal the fate or the whereabouts of the person concerned"; thus, the possible forced disappearance of a person cannot be ruled out based on the absence of information in this regard, or on the denials by those possibly responsible or by the authorities involved.[166]

k) Right to personal liberty (Article 7)

- **Personal liberty and the rights of the child (Articles 7 and 19)**

  - **Principle of the non-deprivation of liberty of children owing to their irregular migratory status**

The Court affirmed that, since offenses related to entry into or permanence in a country cannot, for any reason, have consequences that are equal or similar to those arising from the perpetration of an offense, and owing to the different procedural objectives of immigration proceedings and criminal proceedings, the *ultima ratio* principle of the deprivation of liberty of children is not a parameter that is operative in the sphere of immigration proceedings.[167]

In the Court's opinion, the deprivation of liberty of children based exclusively on migratory reasons exceeds the requirement of necessity, because this measure is not absolutely essential in order to ensure their appearance at the immigration proceedings or to guarantee the implementation of a deportation order. Added to that, the Court found that the deprivation of liberty of a child in this context can never be understood as a measure that responds to the child's best interests. Thus, the Court considered that measures exist that are less severe and that could be appropriate to achieve this objective and, at the same time, respond to the child's best interests. In sum, the Court found that the deprivation of liberty of a child migrant in an irregular situation, ordered on this basis alone, is arbitrary and, consequently, contrary to both the American Convention and Declaration.[168]

In the Court's opinion, States may not use the deprivation of liberty of children who are with their parents, or those that are unaccompanied or separated from their parents, as a preventive measure in immigration proceedings; nor may States base this measure on non-compliance with the requirements to enter and to remain in a country, on the fact that the child is alone or separated from her or his family, or in order to keep the family together, because they can and must have alternative measures that are less harmful and, at the same time, accord priority to the comprehensive protection of the rights of the child.[169]

162 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 230.

163 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 230.

164 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 230.

165 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 265.

166 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 265.

167 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 150.

168 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 154.

169 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 160.

- **Characteristics of priority measures for the comprehensive protection of the rights of child migrants and guarantees for their implementation *(Articles 2, 7, 19, 25 and 29)***

  The Court interpreted that, according to the pertinent international norms, the primary characteristic of an alternative to detention can be found in its ontology; in other words, such measures must be conceived precisely in opposition to what is understood by deprivation of liberty and result in less harm to the rights of the person: for example, reporting at regular intervals to the authorities or a stay in open centers or at a designated place[170].

  However, having previously established the scope of the right to personal liberty with regard to child migrants due solely to non-compliance with immigration laws, interpreting that this involves a general principle of non-deprivation of liberty, the Court reaffirmed that liberty is the rule while the immigration situation is decided or safe repatriation is implemented, and the measures to be decided should not be conceived as an alternative to detention, but rather as priority measures aimed at the comprehensive protection of the children's rights.[171]

  Despite the fact that the decision on the legislative and institutional structure for the implementation of the said measures corresponds to each State, international human rights law has established an approach to the issue considering that its main objective is the attention and care required by children owing to their special condition. Therefore, the Court found that, in this sphere, implementation of the child protection system with its associated services should prevail over that of institutions exercising control of immigration.[172]

  Specifically, the Court considered that the said series of measures that should be implemented for children based on their irregular migratory status must be established in the domestic law of each State. Likewise, the procedure for implementing the measures must be regulated, ensuring respect for the following basic guarantees: a competent administrative or judicial authority; the views of the children concerning their preference must be taken into account; the best interests of the child must be a primary consideration in decision-making; and the guarantee of the right to a review of the decision if it is considered that it is not the appropriate or the least harmful measure, or that it is being used in a punitive manner.[173]

  In sum, the Court considered that child migrants and, in particular, those in an irregular migratory situation, who are in a situation of greater vulnerability, require receiving States to take actions specifically designed to provide priority protection for their rights, to be defined according to the particular circumstances of each specific case; in other words, whether the children are with their family, separated or unaccompanied, and based on their best interests. To this end, States, in compliance with their international obligations in this matter, must design and incorporate into their domestic laws a series of non-custodial measures to be ordered and implemented while immigration proceedings are held that promote, above all, the comprehensive protection of the rights of each child in keeping with the characteristics described above, strictly respecting his or her human rights and the principle of legality.[174]

- ***Basic conditions for places to accommodate child migrants and State obligations in relation to custody for migratory reasons (Articles 1, 2, 4(1), 5, 7, 17 and 19)***

  If States do resort to measures such as lodging or accommodating the child, for a short time, or during the time required to decide the immigration status, the Court recalled the need to separate migrants in custody from persons who have been accused or convicted of criminal offenses, and established that centers to accommodate migrants must be specifically intended for this purpose.[175]

170 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 162.

171 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 163.

172 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 166.

173 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 169.

174 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 170.

175 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, para. 173.

The Court affirmed that the places to accommodate migrants must respect the principle of separation and the right to family unity, so that unaccompanied or separated children should be lodged in places apart from those for adults, and accompanied children should be lodged with their family members, unless it would be more appropriate to separate them in application of the principle of the child's best interests. In addition, the State must ensure a regime and material conditions that are appropriate for children in an open environment.[176]

- **Pre-trial detention standards**

In the case of *Argüelles v. Argentina,* the Court reiterated its consistent case law that, in order to ensure that a measure of deprivation of liberty is not arbitrary, the following parameters must be met: (i) the purpose must be compatible with the Convention, such as to ensure that the accused will not interfere with the course of the proceedings, or evade the action of justice; (ii) the measure must be suitable to achieve the purpose sought; (iii) the measure must be necessary, in other words, absolutely essential in order to achieve the purpose sought; (iv) it must be strictly proportionate, so that the sacrifice inherent in the restriction of the right to liberty is not exaggerated or disproportionate in relation to the advantages obtained by the restriction and achievement of the purpose sought; (v) any order for the restriction of liberty that does not contain sufficient justification that permits evaluating whether it is in keeping with the said parameters will be arbitrary and, therefore, will violate Article 7(3) of the Convention.[177]

It should also be noted that pre-trial detention or imprisonment should be subject to periodic review, so that it is not maintained when the reasons for its adoption no longer exist. In this regard, the judge does not have to wait until delivering an acquittal in order for the person detained to recover his or her freedom, but must periodically assess whether the suitability, necessity and proportionality of the measure subsist, and whether the duration of the detection has exceeded legal and reasonable limits. Whenever it appears that the detention does not meet these conditions, the release of the detainee must be ordered, without prejudice to the continuation of the respective proceedings.[178]

The national authorities are responsible for assessing whether or not it is pertinent to maintain the precautionary measures they issue under domestic law. When performing this task, they should provide sufficient reasoning to explain why the restriction of liberty is maintained. Moreover, in order to ensure that such measures do not become an arbitrary deprivation of liberty pursuant to Article 7(3) of the American Convention, they must be founded on the need to ensure that the person detained does not interfere with the efficient course of the investigations or evade the action of justice[179] and that it is proportionate. Similarly, each time a request is received to release the detainee, the judge must explain the basic reasons why he considers that pre-trial detention should be maintained. Despite the foregoing, even when there are reasons to maintain someone in pre-trial detention, the duration of the detention should not exceed reasonable limits in accordance with Article 7(5) of the Convention.[180]

Consequently, pre-trial detention must respect the provisions of Article 7(5) of the American Convention; in other words, it may not exceed a reasonable time or continue beyond the persistence of the reasons cited to justify it. To the contrary, this would equate anticipating the punishment, which violates widely acknowledged general principles of law, including the principle of presumption of innocence. Thus, prolonged pre-trial detention becomes a punitive rather than a precautionary measure, which denatures this measure and therefore violates Article 8(2) of the Convention.[181]

Furthermore, pre-trial detention is limited by the principle of proportionality, according to which a persons considered innocent should not receive equal or worse treatment that a person who has been convicted. The State must avoid this measure of procedural coercion becoming equal or more oppressive

176 Cf. Rights and guarantees of children in the context of migration and/or need for international protection, supra, paras. 173 to 184.

177 Cf. Case of Argüelles et al. v. Argentina, supra, para. 120

178 Cf. Case of Argüelles et al. v. Argentina, supra, para. 121.

179 Cf. Case of Argüelles et al. v. Argentina, supra, para. 122.

180 Cf. Case of Argüelles et al. v. Argentina, supra, para. 121.

181 Cf. Case of Argüelles et al. v. Argentina, supra, para. 131

for the accused than the punishment that awaits him if he is convicted. In the specific case of *Argüelles et al. v. Argentina,* the Court considered that the State should have imposed less harmful measures, especially when the punishment for the offense of which they were accused was a maximum of 10 years imprisonment, and taking into account that, in September 1984, the proceedings were no longer at the initial stage. This reveals that the pre-trial detentions anticipated the punishment, and that the accused were deprived of liberty for a disproportionate time in relation to the punishment that would correspond to the offense of which they were accused.[182]

- **Detention of military personnel in military facilities**

The Court reiterated that the restrictive and exceptional nature of the military criminal jurisdiction is applicable to the stage of execution of judgment.[183] Nevertheless, it clarified that the confinement in military facilities of those presumably responsible for human rights violations does not, *per se*, violate the obligations established in the Convention or signify that retired or active military personnel may not serve their sentences in special places of detention, including military facilities.[184] The Court indicated that, in order to consider that a punishment that has been imposed violates the Convention, additional elements are required which prove that, owing to the particular circumstances of the case: confinement in a military facility is contrary to the laws in force or to a court order: it is not justified by valid reasons such as the protection of the life and integrity of the person confined; it constitutes an arbitrary privilege or benefit in favor of military authorities who have committed egregious human rights violations, or it has degenerated into a situation that does not permit the execution of the punishment in the terms in which this was imposed by the domestic authorities, or nullifies it, among other factors.[185]

l) Right to property (Article 21)

- **Protection of the lands of indigenous communities**

The Court reiterated its consistent case law, previously established in the *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*, that Article 21 of the American Convention protects the close ties that indigenous peoples have with their lands, as well as with the natural resources on those lands, and the spiritual elements originating from them. Disregarding the specific forms of the right to the use and enjoyment of property in accordance with the culture, traditions, customs and beliefs of each people, would be similar to affirming that there is only one way of using and enjoying property, and this would entail making the protection of this enjoyment illusory for millions of persons.[186]

The Court also reiterated that: (1) the effect of the traditional possession of their lands by the indigenous peoples is equivalent to the ownership title granted by the State; (2) traditional possession grants the indigenous peoples the right to demand official recognition of ownership and its registration, and (3) the State must delimit, demarcate and grant the members of the indigenous communities collective title to the lands.[187] The Court indicated that, with regard to ancestral lands, it is precisely the prolonged or ancestral occupation of these lands that gives rise to the right to demand official recognition of ownership and its registration; while, in the case of alternative lands granted by the State to the indigenous communities in this case, where this ancestral occupation did not exist, the right to collective property was only recognized recently when the State assigned the new lands. Also, in the specific case of the *Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama,* it was considered that the Kuna and Emberá peoples do not inhabit the alternative lands on a provisional basis, because the flooding of their ancestral lands meant that their occupation of alternative lands was

182 Cf. Case of Argüelles et al. v. Argentina, supra, para. 136.

183 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 464.

184 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 469.

185 Cf. Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia, supra, para. 469.

186 Cf. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama. Preliminary objections, merits, reparations and costs. Judgment of October 14, 2014, Series C No. 284, para. 111.

187 Cf. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama, supra para. 117.

necessarily permanent. In addition, the Court indicated that the communities were relocated on alternative lands by a decision of the State itself.

Regarding the State obligations to ensure the enjoyment of the right to property of the indigenous peoples in relation to the said alternative lands, the Court indicated that these obligations necessarily must be the same as when the claim for ancestral lands is still possible. It indicated that, to the contrary, the enjoyment of the right to collective property of the indigenous peoples would be restricted because they had not occupied the alternative lands over a prolonged period or had an ancestral relationship with them, when this lack of occupation was precisely the result of the relocation carried out by the State.[188]

- **Obligation to delimit, demarcate, and grant title to the territories of indigenous communities**

The Court reiterates that, based on the principle of legal certainty, the State obligation to adopt measures to ensure the right to property of the indigenous peoples necessarily means that the State must demarcate, delimit and grant title to the lands of the indigenous and tribal peoples and that failure to comply with this obligation constitutes a violation of the use and enjoyment of the property of the members of these communities.[189] The Court also reiterated that the prolonged failure to grant title to indigenous lands signifies an evident limit to the effectiveness of their right to property in the face of concurrent land claims by third parties or the State itself, and that the absence of an effective delimitation and demarcation by the State of the limits of the territory over which this right to property exists may create – and in this case evidently did create – a permanent climate of uncertainty among the members of the said peoples, because they did not know with certainty the geographical limits of their right to communal property and, consequently, were unaware of where they could freely make use of and enjoy their respective property.[190]

m) Principle of complementarity

The Court determined that, in application of the principle of complementarity, it would not rule on the alleged violations of Articles 4(1) and 5(1) of the American Convention, in relation to Article 1(1) of this instrument, to the detriment of these presumed victims, because a criminal investigation had been conducted into the incident, the person responsible had been prosecuted and punished, and the next of kin of the presumed victims had received pecuniary reparation in the domestic sphere.[191]

The Court reiterated that, under the Convention, the State's responsibility at the international level can only be required after the State has had the occasion to establish, if appropriate, the violation of a right, and to repair the resulting harm by its own means. Moreover, this is based on the principle of complementarity (or subsidiarity) that crosscuts the inter-American human rights system, the purpose of which is, as the Preamble to the American Convention states, to "reinforce[e] or complement the protection provided by the domestic law of the American States." Thus, the Court also recalled that this subsidiary nature of the international jurisdiction means that the system of protection established by the American Convention on Human Rights is not a substitute for the domestic jurisdiction, but rather complements this, so that when a final decision has been taken on a case in the domestic sphere in accordance with the provisions of the Convention, it is not necessary to submit it to the Court for "approval" or "confirmation."[192]

188 Cf. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama, supra, para. 121 and 122.

189 Cf. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama, supra, para. 119.

190 Cf. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano v. Panama, supra, para. 136.

191 Cf. Case of Tarazona Arrieta et al. v. Peru. Preliminary objection, merits, reparations and costs. Judgment of October 15, 2014. Series C No. 286, para. 140.

192 Cf. Case of Tarazona Arrieta et al. v. Peru. Preliminary objection, supra, paras. 136 and 137.

n) Reparations

▪ **Guarantees of non-repetition**

The Court established that the State must present annual reports indicating the actions it has taken in order to implement, within a reasonable time, an effective public policy for the protection of human rights defenders, in the terms of paragraphs 263 and 264 of the judgment.[193]

The Court considered that, within a reasonable time, the State must implement a mechanism, if it does not already have one, that allows all women victims of rape and other forms of sexual violence who request this, to have access free of charge, through the State's public institutions, to specialized medical, psychological and/or psychiatric rehabilitation to redress this type of violation.[194] It also established that the State, within a reasonable time, must incorporate into the permanent education and training programs and courses for those in charge of criminal prosecutions and trials, the standards established in paragraphs 237 to 242, 248, 249, 251, 252, 255, 256, 258, 260, 266, 268 and 278 of the judgment on: (i) the gender perspective for due diligence in conducting preliminary inquiries and judicial proceedings related to gender-based discrimination and violence against women, particularly, acts of violence and rape, and (ii) overcoming gender stereotypes.[195] It also ordered the State, within a reasonable time, to draw up investigation protocols to ensure that cases of torture, rape, and other forms of sexual violence were duly investigated and prosecuted in keeping with the standards indicated in paragraphs 248, 249, 251, 252, 255 and 256 of the judgment, which refer to gathering evidence in cases of torture and sexual violence and, especially, to taking statements and making medical and psychological appraisals.[196]

193 Cf. Case of the Human Rights Defender al. v. Guatemala, supra, fourteenth operative paragraph.

194 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 331.

195 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 327.

196 Cf. Case of Espinoza Gonzáles et al. v. Peru, supra, para. 322.

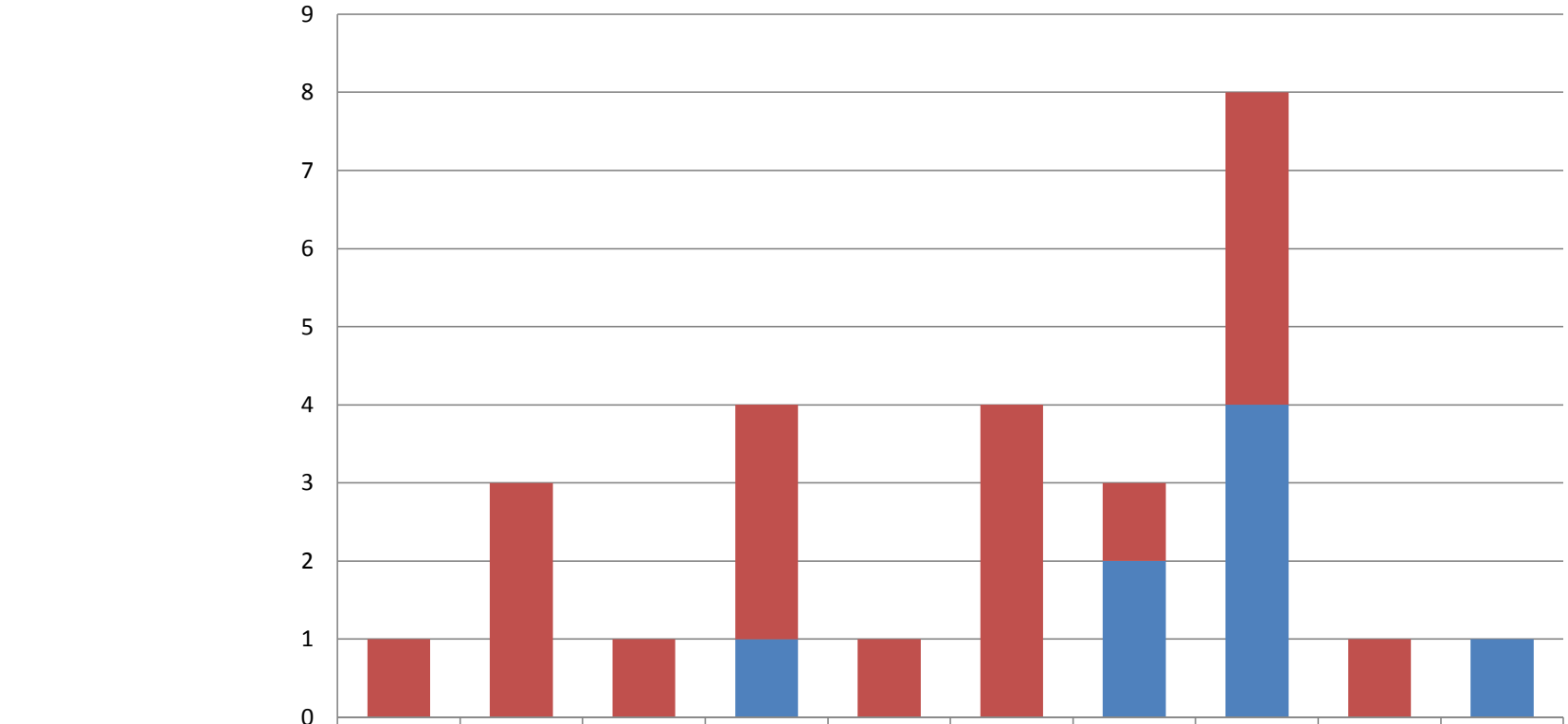
IV. Current status of matters being processed by the Court

A. Contentious cases being processed

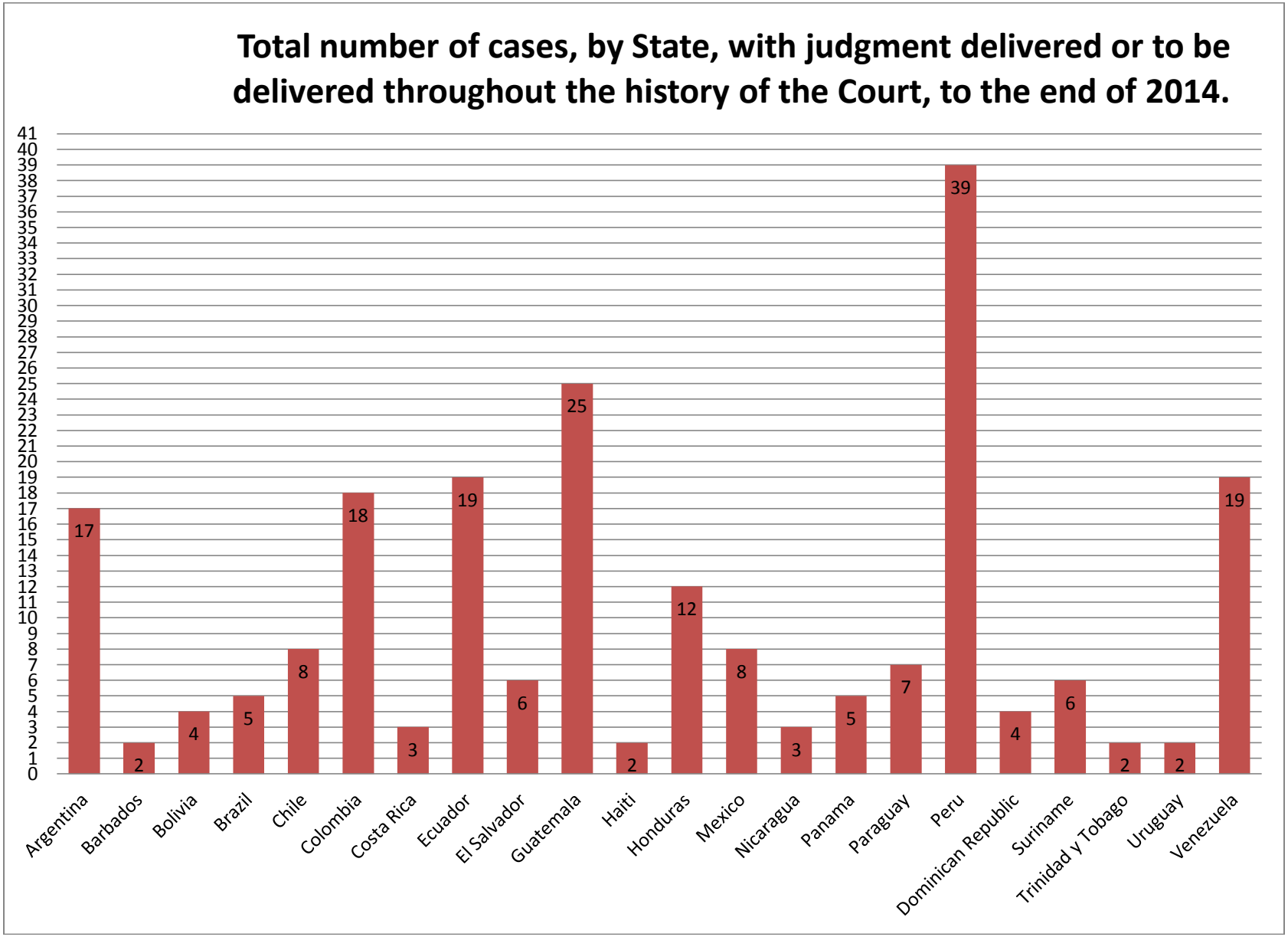
	Name	Status	Date submitted
1	Cruz Sánchez *et al.*	Peru	13-12-2011
2	Garífuna Community of Triunfo de la Cruz and its members	Honduras	21-02-2013
3	Marcel Granier *et al.* (Radio Caracas de Televisión)	Venezuela	28-02-2013
4	Santa Bárbara Campesino Community	Peru	08-07-2013
5	Garífuna Community of Punta Piedra and its members	Honduras	01-10-2013
6	Wong Ho Wing	Peru	30-10-2013
7	García Ibarra and family	Ecuador	23-11-2013
8	Canales Huapaya *et al.*	Peru	05-12-2013
9	Galindo Cárdenas and family members	Peru	19-01-2014
10	Kaliña and Lokono Peoples	Suriname	26-01-2014
11	Ruano Torres and family	El Salvador	13-02-2014
12	Claudina Velásquez Paiz *et al.*	Guatemala	05-03-2014
13	López Lone *et al.*	Honduras	17-03-2014
14	TGLL and family	Ecuador	18-03-2014
15	Humberto Maldonado Vargas *et al.*	Chile	12-04-2014
16	Yarce *et al.*	Colombia	03-06-2014
17	Vladimir Quispealaya Vilcapoma	Peru	05-08-2014
18	Members of the village of de Chichupac and neighboring communities of the municipality of Rabinal	Guatemala	05-08-2014
19	Chinchilla Sandoval *et al.*	Guatemala	19-08-2014
20	Zegarra Marín	Peru	22-08-2014
21	Tenorio Roca *et al.*	Peru	01-09-2014
22	Angel Alberto Duque	Colombia	21-10-2014
23	Herrera Espinoza *et al.*	Ecuador	21-11-2014
24	Manfred Amhrein *et al.*	Costa Rica	28-11-2014
25	Olga Yolanda Maldonado Ordóñez	Guatemala	03-12-2014
26	Homero Flor Freire	Ecuador	11-12-2014
27	Village of La Esperanza	Colombia	13-12-2014

At December 31, 2014, the following twenty-seven cases were pending a decision:

Cases pending at the end of 2014



	Chile	Colombia	Costa Rica	Ecuador	El Salvador	Guatemala	Honduras	Peru	Suriname	Venezuela
cases submitted in 2014	1	3	1	3	1	4	1	4	1	0
cases submitted before 2014	0	0	0	1	0	0	2	4	0	1


Total number of cases, by State, with judgment delivered or to be delivered throughout the history of the Court, to the end of 2014.
41
40
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4
5
8
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3
19
6
25
2
12
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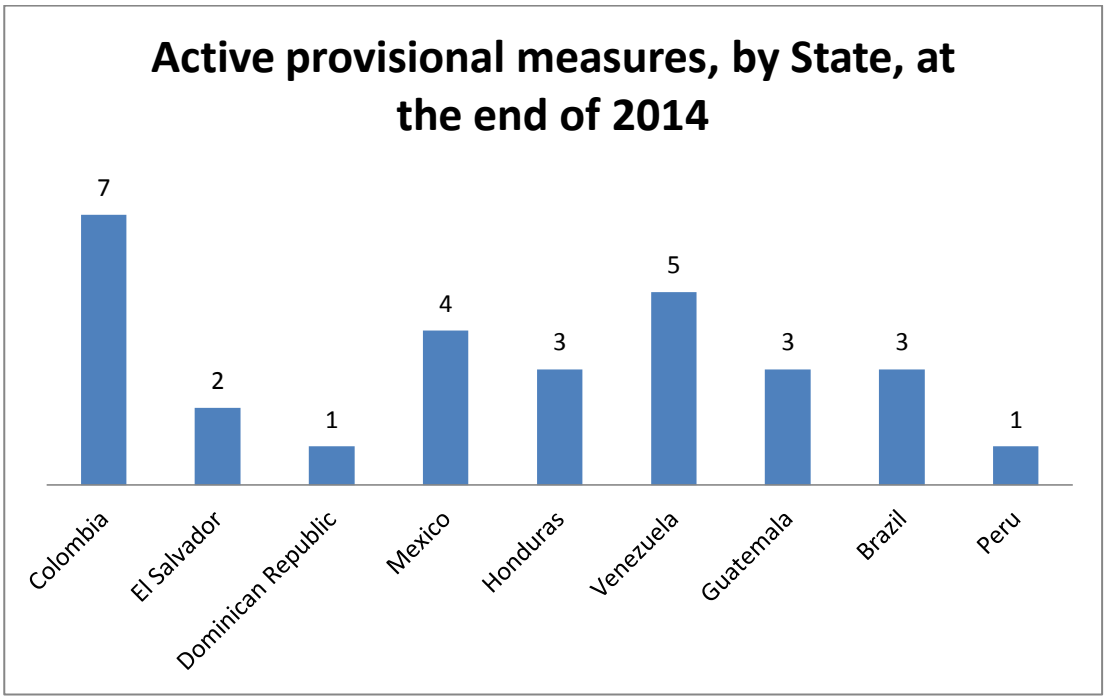
2
2
19
Argentina
Barbados
Bolivia
Brazil
Chile
Colombia
Costa Rica
Ecuador
El Salvador
Guatemala
Haiti
Honduras
Mexico
Nicaragua
Panama
Paraguay
Peru
Dominican Republic
Suriname
Trinidad y Tobago
Uruguay
Venezuela

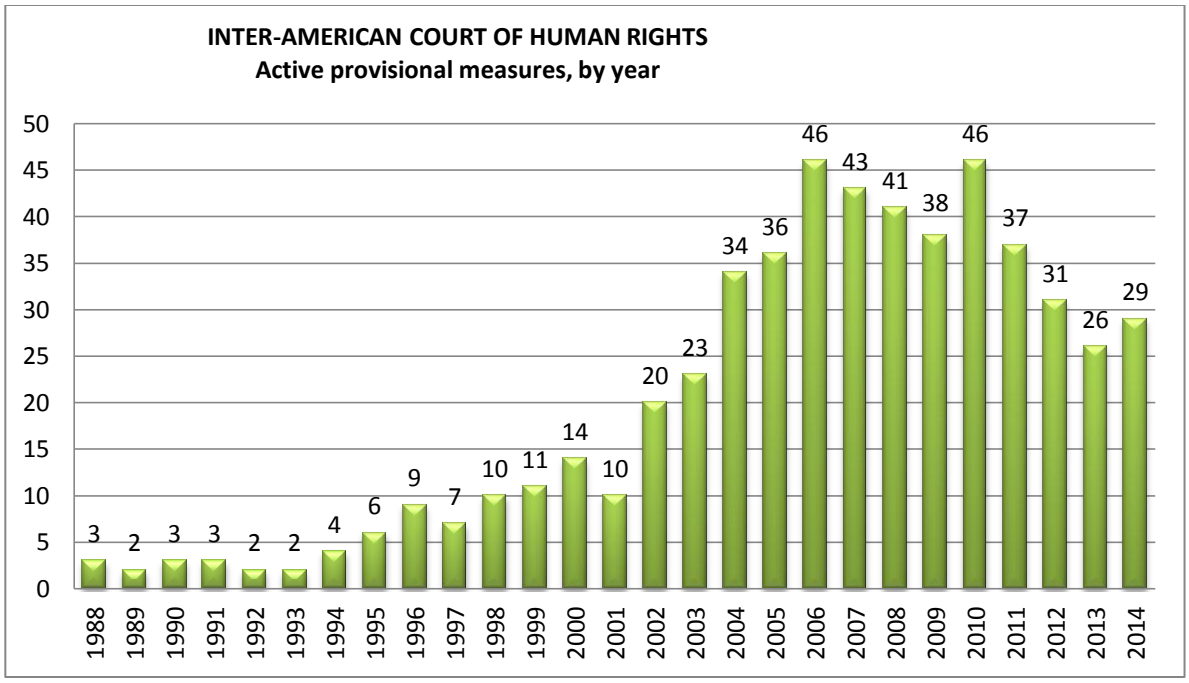
B. Current status of provisional measures

Currently, the Court is monitoring the following twenty-nine provisional measures:

No.	Name	State regarding which the provisional measures have been adopted
1	Socio-educational Internment Unit	Brazil
2	Matter of the Curado Prison Complex	Brazil
3	Matter of the Pedrinhas Prison Complex	Brazil
4	19 Tradesmen	Colombia
5	Almanza *et al.*	Colombia
6	Peace Community of San José de Apartadó	Colombia
7	Giraldo Cardona *et al.*	Colombia
8	La Rochela Massacre	Colombia
9	Mery Naranjo *et al.*	Colombia
10	Matter of Danilo Rueda	Colombia
11	Adrián Meléndez Quijano *et al.*	El Salvador
12	Gloria Giralt de García Prieto *et al.*	El Salvador
13	Bámaca Velásquez *et al.*	Guatemala
14	Guatemala Forensic Anthropology Foundation	Guatemala
15	Helen Mack *et al.*	Guatemala
16	Andino Alvarado (Kawas Fernández)	Honduras
17	Gladys Lanza Ochoa	Honduras
18	José Luis Galdámez Álvarez *et al.*	Honduras
19	Alvarado Reyes *et al.*	Mexico
20	Fernández Ortega *et al.*	Mexico
21	Rosendo Cantú *et al.*	Mexico
22	Castro Rodríguez	Mexico
23	Wong Ho Wing	Peru
24	Almonte Herrera *et al.*	Dominican Republic

25	Matter of certain Venezuelan Penitentiary Centers, which includes the joinder for procedural processing of the measures adopted in the matters of the Monagas Detention Center ("La Pica"); the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Occidental Region Penitentiary Center (Uribana Prison), the Capital Detention Center El Rodeo I and El Rodeo II; the Aragua Penitentiary Center "Tocorón Prison," the Ciudad Bolivar Judicial Detention Center "Vista Hermosa Prison" and the Andean Region Prison, as well as with regard to Humberto Prado and Marianela Sánchez Ortiz, her husband Hernán Antonio Bolívar, their son Anthony Alberto Bolívar Sánchez and their daughter Andrea Antonela Bolívar Sánchez	Venezuela
26	Barrios Family	Venezuela
27	"Globovisión" television station	Venezuela
28	Luis Uzcátegui *et al.*	Venezuela
29	Luisiana Ríos *et al.* (RCTV)	Venezuela





C. Current status of monitoring compliance with judgments

The Court ended 2014 with 158 contentious cases at the stage of monitoring compliance with judgment. In each judgment the Court orders several reparations. The number of reparations, among with the nature and complexity of the measures ordered, impacts on the time that a case will stay on this stage. The Court can only close a case if each one of the reparations is fully complied with. One part of these 158 cases has just one reparation not yet complied; whereas other part has several reparations not yet complied. Consequently, even though, in many case, most of the measures of reparation have been fulfilled, the Court continues to monitor the cases until it considers that the judgment has been complied with fully.

The orders on monitoring compliance with judgment can be found on the Court's website, at the following link:
http://www.corteidh.or.cr/cf/Jurisprudencia2/index.cfm?lang=es

The Court has the following cases at the stage of monitoring compliance with judgment:

Total	Number by State	NAME OF THE CASE	DATE OF JUDGMENT ESTABLISHING REPARATIONS
		ARGENTINA	
1.	1	Garrido and Baigorria	August 27, 1998
2.	2	Cantos	November 28, 2002
3.	3	Bulacio	September 18, 2003
4.	4	Bueno Alves	May 2, 2008
5.	5	Bayarri	October 30, 2008

6.	6	Torres Millacura *et al.*	August 26, 2011
7.	7	Fontevecchia and D'Amico	November 29, 2011
8.	9	Fornerón and daughter	April 27, 2012
9.	10	Furlan and family members	August 31, 2012
10.	11	Mohamed	November 23, 2012
11.	12	Mendoza *et al.*	May 14, 2013
12.	12	Mémoli	August 22, 2013
13.	13	Gutiérrez and family	November 25, 2013
14.	14	Arguelles *et al.*	November 20, 2014
BARBADOS			
15.	1	Boyce *et al.*	November 20, 2007
16.	2	Dacosta Cadogan	September 24, 2009
BOLIVIA			
17.	1	Trujillo Oroza	February 27, 2002.
18.	2	Ticona Estrada *et al.*	November 27, 2008
19.	3	Ibsen Cárdenas and Ibsen Peña	September 1, 2010
20.	4	Pacheco Tineo Family	November 25, 2013
BRAZIL			
21.	1	Ximenes Lopes	November 30, 2005
22.	2	Garibaldi	September 23, 2009
23.	3	Gomes Lund *et al.* ("Guerrilha do Araguaia")	November 24, 2010
CHILE			
24.	1	Palamara Iribarne	November 22, 2005
25.	2	Almonacid Arellano *et al.*	September 26, 2006
26.	3	Atala Riffo and daughters	February 24, 2012
27.	4	García Lucero	August 28, 2013
28.	5	Norín Catrimán *et al.*	May 29, 2014
COLOMBIA			
29.	1	Caballero Delgado and Santana	January 29, 1997
30.	2	Las Palmeras	November 26, 2002
31.	3	19 Tradesmen	July 5, 2004
32.	4	Gutiérrez Soler	September 12, 2005
33.	5	Mapiripán Massacre	September 15, 2005
34.	6	Pueblo Bello Massacre	January 31, 2006
35.	7	Ituango Massacres	July 1, 2006
36.	8	La Rochela Massacre	May 11, 2007
37.	9	Escué Zapata	July 4, 2007
38.	10	Valle Jaramillo *et al.*	November 27, 2008
39.	11	Cepeda Vargas	May 26, 2010
40.	12	Vélez Restrepo and family members	September 3, 2012
41.	13	Santo Domingo Massacre	November 30, 2012
42.	14	Afro-descendant Communities Displaced from the Cacarica River Basin (Operation Genesis)	November 20, 2013
43.	15	Rodríguez Vera *et al.* ("the Disappeared from the Palace of Justice")	November 14, 2014
COSTA RICA			
44.	1	Artavia Murillo *et al.*	November 28, 2012
ECUADOR			
45.	1	Benavides Cevallos	June 19, 1998
46.	2	Suárez Rosero	January 20, 1999
47.	3	Tibi	September 7, 2004
48.	4	Zambrano Vélez *et al.*	July 4, 2007
49.	5	Chaparro Álvarez and Lapo Íñiguez	November 21, 2007

50.	6	Albán Cornejo *et al.*	November 22, 2007
51.	7	Salvador Chiriboga	March 3, 2011
52.	8	Vera Vera *et al.*	May 19, 2011
53.	9	Kichwa Indigenous People of Sarayaku	June 27, 2012
54.	10	Suárez Peralta	May 21, 2013
55.	11	Quintana Coello *et al.*	August 23, 2013
56.	12	Camba Campos	August 28, 2013
EL SALVADOR			
57.	1	Serrano Cruz Sisters	March 1, 2005
58.	2	García Prieto *et al.*	November 20, 2007
59.	3	Contreras *et al.*	August 31, 2011
60.	4	Massacres of El Mozote and nearby places	October 25, 2012
61.	5	Rochac Hernández	October 14, 2014
GUATEMALA			
62.	1	Blake	January 22, 1999
63.	2	"White Van" (Paniagua Morales *et al.*)	March 8, 1998
64.	3	"Street Children" (Villagrán Morales *et al.*)	February 22, 2002
65.	4	Bámaca Velásquez	November 25, 2000
66.	5	Myrna Mack Chang	November 25, 2003
67.	6	Molina Thiessen	July 3, 2004
68.	7	Plan de Sánchez Massacre	November 19, 2004
69.	8	Carpio Nicole *et al.*	November 22, 2004
70.	9	Fermín Ramírez	June 20, 2005
71.	10	Raxcacó Reyes	September 15, 2005
72.	11	Tiu Tojín	November 26, 2008
73.	12	Las Dos Erres Massacre	November 24, 2009
74.	13	Chitay Nech *et al.*	May 25, 2010
75.	14	Río Negro Massacres	September 4, 2012
76.	15	Gudiel Álvarez *et al.* ("Diario Militar")	November 20, 2012
77.	16	García and family members	November 29, 2012
78.	17	Veliz Franco	May 19, 2014
79.	18	Human Rights Defender	August 28, 2014
HAITI			
80.	1	Yvon Neptune	May 6, 2008.
81.	2	Fleury *et al.*	November 23, 2011.
HONDURAS			
82.	1	Juan Humberto Sánchez	June 7, 2003
83.	2	López Álvarez	February 1, 2006
84.	3	Servellón García	September 21, 2006
85.	4	Kawas Fernández	April 3, 2009
86.	5	Pacheco Teruel *et al.*	April 27, 2012
87.	6	Luna López	October 10, 2013
MEXICO			
88.	1	González *et al.* ("Cotton Field")	November 16, 2009
89.	2	Radilla Pacheco	November 23, 2009
90.	3	Fernández Ortega *et al.*	August 30, 2010
91.	4	Rosendo Cantú *et al.*	August 31, 2010
92.	5	Cabrera García and Montiel Flores	November 26, 2010
93.	6	García Cruz and Sanchez Silvestre	November 26, 2013
NICARAGUA			
94.	1	YATAMA	June 23, 2005
PANAMA			
95.	1	Baena Ricardo *et al.*	February 2, 2001
96.	2	Heliodoro Portugal	August 12, 2008

97.	3	Vélez Loor	November 23, 2010
PARAGUAY			
98.	1	"Juvenile Reeducation Institute"	September 2, 2004
99.	2	Yakye Axa Indigenous People	June 17, 2005
100.	3	Sawhoyamaxa Indigenous People	March 29, 2006
101.	4	Goiburú *et al.*	September 22, 2006
102.	5	Vargas Areco	September 26, 2006
103.	6	Xákmok Kásek Indigenous People	August 24, 2010
PERU			
104.	1	Neira Alegría *et al.*	September 19, 1996
105.	2	Loayza Tamayo	November 27, 1998
106.	3	Castillo Paez	November 27, 1998
107.	4	Castillo Petruzzi *et al.*	May 30, 1999
108.	5	Constitutional Court	January 31, 2001
109.	6	Ivcher Bronstein	February 6, 2001
110.	7	Cesti Hurtado	May 31, 2001
111.	8	Barrios Altos	November 30, 2001
112.	9	Cantoral Benavides	December 3, 2001
113.	10	Durand Ugarte	December 3, 2001
114.	11	Five Pensioners	February 28, 2003
115.	12	Gómez Paquiyauri Brothers	July 8, 2004
116.	13	De la Cruz Flores	November 18, 2004
117.	14	Huilca Tecse	March 3, 2005
118.	15	Gómez Palomino	November 22, 2005
119.	16	García Asto and Ramírez Rojas	November 25, 2005
120.	17	Acevedo Jaramillo *et al.*	February 7, 2006
121.	18	Baldeón García	April 6, 2006
122.	19	Dismissed Congressional Employees (Aguado Alfaro *et al.*)	November 24, 2006
123.	20	Miguel Castro Castro Prison	November 25, 2006
124.	21	La Cantuta	November 29, 2006
125.	22	Cantoral Huamaní and García Santa Cruz	July 10, 2007
126.	23	Acevedo Buendía ("Discharged Employees of the Comptroller's Office")	July 1, 2009
127.	24	Anzualdo Castro	September 22, 2009
128.	25	Osorio Rivera	November 26, 2013
129.	26	Case of J	November 27, 2013
130.	27	Tarazona Arrieta	October 15, 2014
131.	28	Espinoza Gonzáles	November 20, 2014
DOMINICAN REPUBLIC			
132.	1	Yean and Bosico Girls	September 8, 2005
133.	2	González Medina and family members	February 27, 2012
134.	3	Nadege Dorzema *et al.*	October 24, 2012
135.	4	Expelled Dominicans and Haitians	August 28, 2014
SURINAME			
136.	1	Moiwana Community	June 15, 2005
137.	2	Saramaka People	November 28, 2007
138.	3	Liakat Ali Alibux	January 30, 2014
TRINIDAD AND TOBAGO			
139.	1	Hilaire, Constantine, Benjamin *et al.*	June 21, 2002
140.	2	Caesar	March 11, 2005
URUGUAY			
141.	1	Gelman	February 24, 2011
142.	2	Barbani Duarte *et al.*	October 13, 2011

VENEZUELA			
143.	1	El Amparo	September 14, 1996
144.	2	Caracazo	August 29, 2002
145.	3	Blanco Romero *et al.*	November 28, 2005
146.	4	Montero Arangueren *et al.*	July 5, 2006
147.	5	Apitz Barbera *et al.*	August 5, 2008
148.	6	Ríos *et al.*	January 28, 2009
149.	7	Perozo *et al.*	January 28, 2009
150.	8	Reverón Trujillo	June 30, 2009
151.	9	Barreto Leiva	November 17, 2009
152.	10	Usón Ramírez	November 20, 2009
153.	11	Chocrón Chocrón	July 1, 2011
154.	12	López Mendoza	September 1, 2011
155.	13	Barrios Family	November 24, 2011
156.	14	Díaz Peña	June 26, 2012
157.	15	Uzcátegui *et al.*	September 3, 2012
158.	16	Landaeta Mejía Brothers	August 27, 2014

D. Advisory opinions being processed

As indicated in section 3.4, the request for an advisory opinion presented by the State of Panama on April 28, 2014, is pending a ruling by the Court.

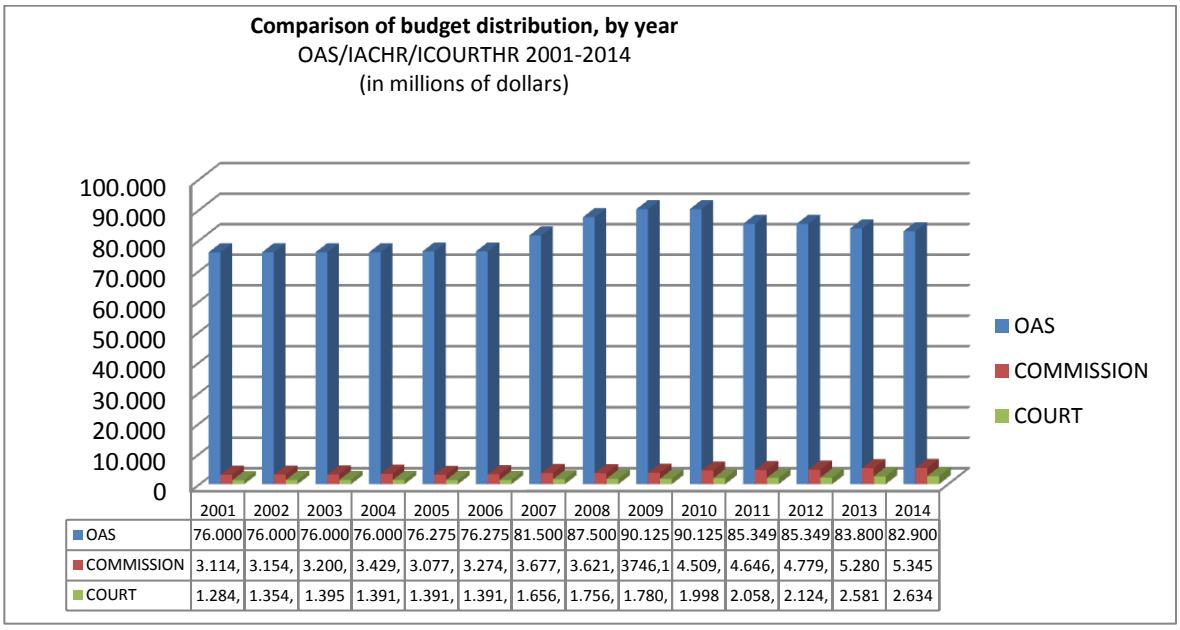
V. Budget

A. Income

The total income received by the Court for its operations during the 2014 accounting exercise was US$5,520,300.85. This amount was provided by regular and special funds.

1. Regular income

The regular income from the OAS Budget approved by the General Assembly for 2014 was US$2,661,000.00. However, the final amount allocated for this year was US$2,634,489.00.[197]



	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
OAS	76.000	76.000	76.000	76.000	76.275	76.275	81.500	87.500	90.125	90.125	85.349	85.349	83.800	82.900
COMMISSION	3.114,	3.154,	3.200,	3.429,	3.077,	3.274,	3.677,	3.621,	3746,1	4.509,	4.646,	4.779,	5.280	5.345
COURT	1.284,	1.354,	1.395	1.391,	1.391,	1.391,	1.656,	1.756,	1.780,	1.998	2.058,	2.124,	2.581	2.634

It should be noted that the amount provided by the OAS represents only 47.73% of the Court's income, while the remainder is covered by special income.

2. Special income

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

In 2014, the Court received voluntary contributions to its operations amounting to US$2,885,811.85, from the following States and agencies:

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

- Government of Costa Rica, under the headquarters agreement: US$ 94,735.14.
- Government of Mexico, through the Permanent Mission to the OAS: US$300,000.00.
- During the OAS General Assembly in Asunción, Paraguay, Ecuador announced a donation of US$1,000,000. At the close of 2014, the Government of Ecuador, through its Permanent Mission to the OAS had transferred: US$333,333.33.
- United Nations High Commissioner for Refugees (UNHCR): US$26,200.00.
- Universidad de Santa Clara: US$1,600.00.

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

- **Spanish International Development Cooperation Agency (AECID):**
  Project "Strengthening the capacities of the Inter-American Court to evaluate the existence of and status of compliance with provisional measures and to decide particularly complex contentious cases" (CDH - 1302): US$90,000.00.

- **Norwegian Ministry of Foreign Affairs**
  Project "Strengthening the judicial capacities of the Inter-American Court of Human Rights and the dissemination of its work 2013-2015," Program CAM 2665, CAM 12/0005: US$733,112.94 corresponding to the 2014 budget, deposited as follows: US$342,259.34 in November 2013, US$366,631.67 in June 2014, and US$24,221.93 in September 2014. For the 2015 budget, US$394,280.17 was received in December 2014. The purpose of the project is to help enhance inter-American justice in the area of human rights, through support for the Court's jurisdictional work and training activities, as well as to promote its work throughout the continent.

- **Government of the Kingdom of Denmark**
  Regional Human Rights Program in Central America, Pro-Derechos 2013-2015: US$640,624.51. The development purpose of the program is to improve the respect, protection and defense of the human rights of vulnerable persons, especially of indigenous peoples, women and human rights defenders in Central America, particularly in Guatemala, Honduras and Nicaragua.

- **National Justice Secretariat of the Ministry of Justice of Brazil**
  Cooperation project between the Committee of the National Secretariat of the Ministry of Justice of Brazil and the Inter-American Court of Human Rights on "Enhancing the dissemination of the Inter-American Court's case law in Portuguese for Brazilian agents of justice 2013-2014": US$332,285.00.

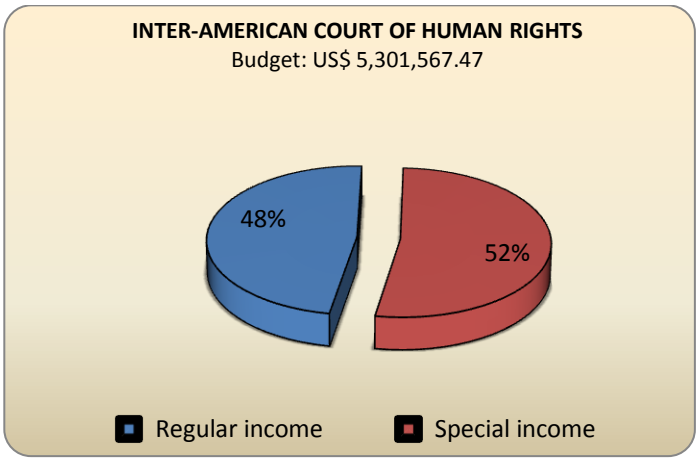
- **European Commission**
  Cooperation project between the European Commission, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights; "Support for and strengthening of the work of the inter-American human rights system by the promotion and protection of the rights of the most vulnerable and excluded groups and communities in the Americas." The first tranche of US$222,500.10 was received in April 2014.

- **Cooperation agreement with Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ)**
  On September 3, 2013, the Court signed a "Memorandum of understanding" with Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) on joint efforts in the context of the program "Regional international law and access to justice in Latin America (DIRAJus). The agreement is designed "to support the strengthening of access to justice." The agreement includes the assignment of a German lawyer/consultant, who is already working in the Court's Secretariat, and whose functions focus on conducting research on access to justice, and is accompanied by a financial contribution of 350,000 euros, to be received over the 2014-2015 biennium.

  During 2014, two funding contracts were signed: the first for a dialogue between the ICourtHR and the European Court of Human Rights on jurisprudence and experiences, and meetings with State and academic authorities in Germany on access to inter-American justice, for US$100,000.00, of which the sum of US$90,000.00, equivalent to 90% of the project, has been disbursed covering the period August to November 2014. The second contract involves information and communication technologies, and

represents US$66,000.00, of which US$59,400.00 was disbursed in November 2014, for the period October 2013 to January 2014.

A major part of the Court's expenses is covered by voluntary contributions, rather than by the regular OAS resources; so much so that, currently, voluntary contributions and international cooperation finance 52.27% of the Court's activities. Consequently, year after year, the Court is compelled to conduct a complex and exhausting search for the funding that is essential for its normal operations.



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

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

- **Technical assistance**

The Court has received technical assistance under different cooperation agreements:

- The Federal Republic of Germany has provided technical assistance to the Court during 2014 by the assignment of a lawyer who is working in the Court's Secretariat.
- The Republic of France has provided technical assistance by the assignment of a lawyer who worked in the Court's Secretariat up until October 2014.
- The University of Notre Dame has provided technical assistance by partially funding a lawyer who worked in the Secretariat until August 2014, the date on which another lawyer was appointed to work in the Secretariat until August 2015, on the same terms.

B. Budget from the Regular Fund approved for 2015

During its forty-eighth special session, held in Washington, D.C. on October 29, 2014, the OAS General Assembly approved a budgetary envelope for the Court of US$2,661,100.00 for 2015.[198] This is exactly the same amount that was approved for 2014. However, 3% of this amount was hold *ex officio* by the

198 See Program–Budget of the Organization approved by the General Assembly during the XVLIII special session, October 2014, AG/RES.1 (XLVIII-E/14), available at: http://www.oas.org/budget/2015/Program%20Budget%202015_V1.pdf

OAS General Secretariat to cover its own unforeseen budgetary expenses. Thus, the final amount allocated for the year was US$2,581,267.00.

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

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

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

Consequently, on June 8, 2011, following the OAS General Assembly held in San Salvador, El Salvador, the Court called for a working meeting of the OAS Member States, Permanent Observers, and different cooperation agencies in order to present its "Guidelines 2011-2015: Strengthening inter-American justice by predictable and harmonious financing." These guidelines constitute a strategic plan to be implemented over the period 2011 to 2015 in order to reinforce the Inter-American Court of Human Rights and enable it to embark on sustainable growth, based on the considerable responsibility entailed by administering inter-American justice and the constant increase in the Court's workload. To this end, the intention is to strengthen the said areas into which the Court's operations are divided.

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

The document is available at the following link:
http://scm.oas.org/pdfs/2011/CP27341S1.pdf

D. Audit of the financial statements

During 2014, an audit was conducted of the Inter-American Court's financial statements for the 2013 financial year. It covered all the funds administered by the Court, including the funds from the OAS, the contribution of the Costa Rican Government, the funds from international cooperation, and also the contributions from other States, universities and other international agencies. However, the Victims' Legal Assistance Fund is administered separately from the Court's finances (*infra* 6.1.d).

The financial statements are prepared by the administrative unit of the Inter-American Court and the audit was made in order to obtain an opinion confirming the validity of the Court's financial transactions, taking into account generally accepted international accounting and auditing principles. According to the February 28, 2014, report of *HLB Venegas y Colegiados*, authorized public accountants, the Court's financial statements adequately reflect the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2013, which are in keeping with generally accepted and consistently applied accounting principles for non-profit organizations (such as the Court). The report of the independent auditors shows that the internal accounting control system used by the Court is adequate for recording and controlling transactions and that reasonable business practices are used to

ensure the most effective use of the funds provided. A copy of the report was sent to the OAS Secretary General, the OAS Financial Services Department and to that Organization's Inspector General.

In addition, each cooperation project is subject to an independent audit to ensure the most effective use of the resources.

- **Mechanisms to promote access to inter-America justice: the Victims' Legal Assistance Fund (FAV) and the Inter-American Defender (DI)**

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

E. Victims' Legal Assistance Fund

1. Procedure

On February 4, 2010, the Court's Rules were issued for the Operation of the Victims' Legal Assistance Fund (hereinafter, "the Fund") and they entered into force on June 1, 2010. The purpose of the Fund is to facilitate access to the inter-American human rights system to those persons who, at the present time, do not have the necessary resources to bring their case before the Court. Once the presumed victim proves that he or she does not have sufficient financial resources, the Court may decide to approve, by means of an Order, disbursement to cover the expenses arising from the proceedings.

In some cases, the respondent State must reimburse the said amounts, because, in keeping with the provisions of the Rules, when delivering judgment, the Court is empowered to order the respondent State to reimburse the Fund the disbursements made during the processing of the respective case.[199]

Once their case has been submitted to the Court, any victim who does not have the necessary financial resources to cover the expenses resulting from proceedings may expressly request access to the Fund. According to the Rules, the presumed victims who wish to avail themselves of the Fund must inform the Court in their brief with pleadings, motions and evidence. In addition, they must authenticate, by means of a sworn declaration or other appropriate means of proof that are satisfactory to the Court, that they lack sufficient financial resources to cover the costs of litigation before the Court and indicate precisely which aspects of their participation require the use of resources from the Fund.[200] The President is responsible for evaluating each application to determine whether or not it is admissible, and will indicate which aspects of the participation can be covered by the Victims' Legal Assistance Fund.[201]

The Court's Secretariat is in charge of administering the Fund. When the President has determined that the request is admissible and his decision has been notified, the Court's Secretariat opens a file of expenditures for each specific case, in which it records each disbursement made, in accordance with the parameters authorized by the President. Subsequently, the Court's Secretariat informs the respondent State of the disbursements made from the Fund, so that it can submit any observations it wishes within the time frame established to this effect. As indicated above, when delivering judgment, the Court will assess the admissibility of ordering the respondent State to reimburse the Fund any disbursement made and will indicate the amount owed.

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

200 Ibid., article 2.

201 Ibid., article 3.

2. Donations to the Fund

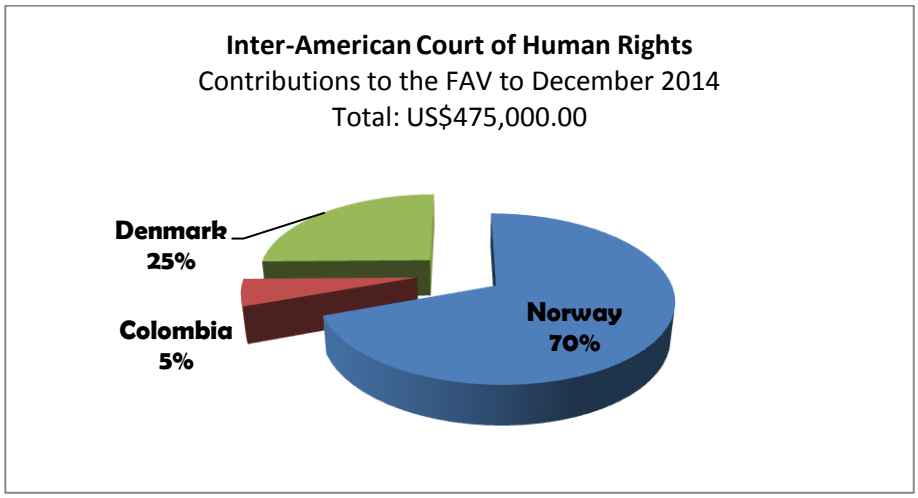
It should be underlined that this Fund does not receive resources from the regular budget of the OAS. This has led the Court to seek voluntary contributions to ensure its existence and operation. To date, the funds have come from several cooperation projects and from voluntary contributions from States.

Initially, the funds only came from a cooperation Project signed with Norway for the period 2010-2012, which provided US$210,000.00 to the Legal Assistance Fund, and from the donation of US$25,000.00 made to the Fund by Colombia. During 2012, owing to new cooperation agreements signed with Norway and Denmark, the Court obtained commitments for additional funding of US$180,000.00 and US$120,000.00, respectively, to allocate to the operation of the Victims' Legal Assistance Fund for the period 2013 to 2015. Thus, for the execution of the 2014 budget, the Fund received US$60,000.00 from Norway and US$60,000.00 from Denmark.
Based on the foregoing, at December 2014, total contributions to the fund amounted to US$475,000.00.

The list of donor countries to date is as follows:

Contributions to the Fund (in US$)

State	Year	Contribution	Spent	Remaining at 2014
Norway	2010-2012	210,000.00	83,412.89	126,587.11
Colombia	2012	25,000.00	1,445.15	23,554.85
Norway	2013	60,000.00	30,363.94	29,636.06
Denmark	2013	60,000.00	5,661.75	54,338.25
Norway	2014	60,000.00	19,621.88	40,378.12
Denmark	2014	60,000.00	30,586.74	29,413.26
	SUB TOTAL	**475,000.00**	**171,092.35**	**303,907.65**



3. Expenses incurred by the Fund

a) Expenses approved in 2014

During 2014, the President of the Inter-American Court of Human Rights issued the following orders approving access to the Fund in the cases indicated:

	Case	Order[202]	Items covered
1	Tarazona Arrieta *et al. v.* Peru	January 22, 2014	Presentation of a maximum of two statements and one expert opinion
2	Case of the Garífuna Community of Punta Piedra and its members *v.* Honduras	May 30, 2014	Presentation of a maximum of two statements and one expert opinion
3	Case of the Santa Bárbara Campesino Community *v.* Peru	June 9, 2014	Presentation of a maximum of three statements and one expert opinion
4	Case of Canales Huapaya *et al. v.* Peru	August 29, 2014	Presentation of a maximum of two statements
5	Case of TGGL and family *v.* Ecuador	October 7, 2014	Presentation of a maximum of three statements and two expert opinions

It should be repeated that, following the approval of the expenses, the final amount is determined subsequently in the judgment or resolution.

b) Expenditure approve and respective reimbursements from 2010 to 2014

Between 2010 and 2014, the President of the Inter-American Court of Human Rights has declared the application made by the presumed victims to access the Victims' Legal Assistance Fund of the Court admissible in 31 cases. As the Rules establish, the States are obliged to reimburse the amount ordered to the Fund used when the Court decides this in the judgment or resolution. In 12 cases the States have already reimbursed the amount to the Fund ordered, and in 8 cases this obligations is still pending.

From the 31 cases where the Fud was admissible, in 26 there is a decision by the Court ordering the reimbursement of the expenses and in 1 case the disbursements was not ordered, because the Court did not held the State responsible for a violation of the American Convention. From the 26 cases, where the disbursement has been ordered, in 8 the time limit granted to the State in the respective judgments to reimburse the disbursements from the Fund has not yet expired.

202 These orders are available at: http://corteidh.or.cr/index.php/es/fondo-victimas

The following table indicates: (i) the name of the case; (ii) the order declaring admissible the approval of access to the fund; (iii) the destination of the said expenses; (iv) the final amount of the said expenses, as applicable; (v) the judgment declaring the obligation to make the reimbursement and the sum to be reimbursed, if appropriate, and, lastly, (vi) the amount reimbursed by the State, as applicable.

	Case	Order[203]	Description of expenditure	Amount	Judgment[204]	Reimbursed at December 31, 2014
1	González Medina and family members *v.* Dominican Republic	February 23, 2011	To cover the expenses of travel and accommodation for one victim and one witness to attend the public hearing; expenses of one statement presented by affidavit	US$ 2,219.48	February 27, 2012	**0%**
2	Kichwa Indigenous People of Sarayaku *v.* Ecuador	March 3, 2011	To cover the expenses of travel and accommodation for four victims to attend the public hearing	US$ 6,344.62	June 27, 2012	**100%**
3	Uzcátegui *et al. v.* Venezuela	June 1, 2011	To cover the expenses of travel and accommodation for two victims to attend the public hearing; expenses of one statement presented by affidavit	US$ 4,833.12	September 3, 2012	**0%**
4	Contreras *et al. v.* El Salvador	March 4, 2011	To cover the expenses of travel and accommodation for two victims and one expert witness to attend the public hearing	US$ 4,131.51	August 31, 2011	**100%**
5	Torres Millacura *et al. v.* Argentina	April 14, 2011	To cover the expenses of travel and accommodation for one victim, one expert witness and one representative to attend the public hearing	US$ 10.043,02 + US$ 4.286,03 (interests on arrears)	August 26, 2011	**100%**
6	Barrios Family *v.* Venezuela	April 15, 2011	To cover the expenses of travel and accommodation for one victim and one	US$ 3,232.16	November 24, 2011	**0%**

203 Order approving the necessary disbursements in the respective case.

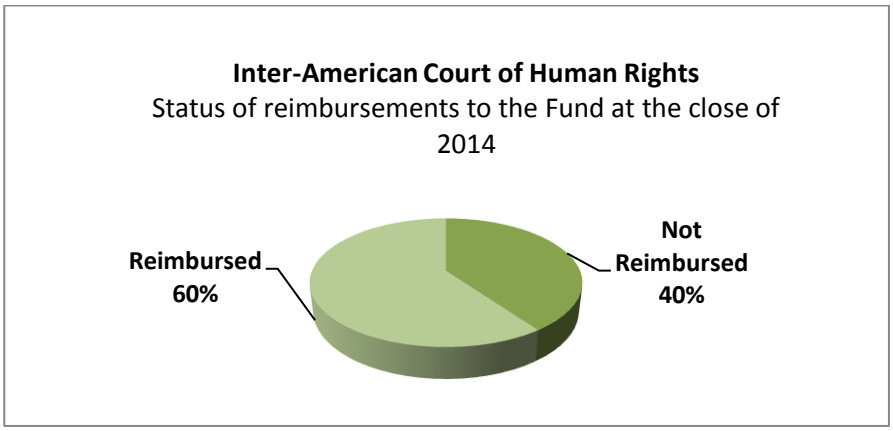
204 Judgment or order determining the final expenses covered.

			expert witness to attend the public hearing; expenses of one statement presented by affidavit			
7	Fornerón and daughter *v.* Argentina	May 31, 2011	To cover the expenses of travel and accommodation for one victim and one representative to attend the public hearing; expenses of one statement presented by affidavit	US$ 9.046,35 + US$ 3.075,46 (interests on arrears)	April 27, 2012	**100%**
8	Furlan and family members *v.* Argentina	November 23, 2011	To cover the expenses of travel and accommodation for two inter-American defenders, one victim and two expert witnesses to attend the public hearing; expenditure of preparing affidavits; present and future expenses of inter-American defenders	US$ 13.547,87 + US$ 4.213,83 (interests on arrears)	August 31, 2012	**100%**
9	Castillo González *et al. v.* Venezuela	November 28, 2011	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of two statements presented by affidavit	**ACQUITTAL** (*i.e.* The State was not sentenced to reimburse these expenses)		
10	Nadege Dorzema *et al v.* Dominican Republic	December 1, 2011	To cover the expenses of travel and accommodation for two victims and one representative to attend the public hearing; expenses of one statement presented by affidavit	US$ 5,972.21	October 24, 2012	**0%**
11	Massacres of El Mozote and nearby places *v.* El Salvador	December 1, 2011	To cover the expenses of travel and accommodation for three victims and one expert witness to attend the public hearing	US$ 6,034.36	October 25, 2012	**100%**
12	Mendoza *et al. v.* Argentina	May 8, 2012	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of two expert opinions provided by affidavit	US$ 3.693,58 + US$ 668.02 (interests on arrears)	May 14, 2013	**100%**
13	Norín Catrimán *et al. v.* Chile	May 18, 2012	To cover the expenses of travel and accommodation for two victims, one witness and one expert witness to attend the public hearing	US$ 7,652.88	May 29, 2014	**100%**

14	Mohamed *v.* Argentina	June 4, 2012	To cover the expenses of travel and accommodation for two inter-American defenders and one expert witness to attend the public hearing; expenses for the statement of one expert witness and one victim by affidavit	US$ 7.539,42 + US$ 1.998,30 (interests on arrears)	November 23, 2012	**100%**
15	Suárez Peralta *v.* Ecuador	September 14, 2012	To cover the expenses of travel and accommodation for one witness to attend the public hearing; expenses of three statements presented by affidavit	US$ 1,436.00	May 21, 2013	**100%**
16	J *v.* Peru	October 24, 2012	To cover the expenses of travel and accommodation for one witness and one representative to attend the public hearing; expenses of one statement presented by affidavit	US$ 3,683.52	November 27, 2013	**0%**
17	Osorio Rivera *et al. v.* Peru	March 12, 2012	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of one affidavit	US$ 3,306.86	November 26, 2013	**0%**
18	Véliz Franco *v.* Guatemala	January 8, 2013	To cover the expenses of travel and accommodation for one victim and one expert witness to attend the public hearing; expenses of two statements presented by affidavit	US$ 2,117.99	May 19, 2014	**100%**
19	Landaeta Mejías Brothers *et al. v.* Venezuela	February 13, 2013	To cover the expenses of travel and accommodation for one victim to attend the public hearing	US$ 2,725.17	August 27, 2014	**0%**
20	Pacheco Tineo Family *v.* Bolivia	February 19, 2013	To cover the expenses of travel and accommodation for two victims and two inter-American defenders to attend the public hearing; travel expenses to interview the victims; expert opinion expenses	US$ 9,564.63	November 25, 2013	**100%**
21	Miguel Castro Castro Prison *v.* Peru	July 29, 2013	To cover the expenses of travel and accommodation for one victim and common intervenor of the representatives of the victims and their families to attend the private hearing on monitoring compliance with judgment	US$ 2,756.29	March 31, 2014	**0%**

In the following cases the time limit granted to the State in the respective judgments to reimburse the disbursements from the Fund has not yet expired.

	Case	Order	Description of expenditure	Amount	Judgment
22	Espinoza Gonzáles *et al. v.* Peru	February 21, 2013	To cover the expenses of travel and accommodation for one witness to attend the public hearing; expenses of two statements presented by affidavit	US$ 1,972.59	November 20, 2014
23	Expelled Dominicans and Haitians *v.* Dominican Republic	March 1, 2013	To cover the expenses of travel and accommodation for three victims to attend the public hearing	US$ 5,661.75	August 28, 2014
24	Argüelles *et al. v.* Argentina	June 12, 2013	To cover the expenses of travel and accommodation for one expert witness and two inter-American defenders to attend the public hearing	US$ 7,244.95	November 20, 2014
25	Rochac Hernández *et al. v.* El Salvador	December 12, 2013	To cover the expenses of travel and accommodation for two victims and one expert witness to attend the public hearing; expenses of two statements presented by affidavit	US$ 4,134.29	October 14, 2014
26	Tarazona Arrieta *et al. v.* Peru	January 22, 2014	To cover the expenses of travel and accommodation for one victim to attend the public hearing; expenses of one statement presented by affidavit	US$ 2,030.89	October 15, 2014
27	Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano *v.* Panama	March 3, 2014	To cover the expenses of travel and accommodation for three victims to attend the public hearing; expenses of one statement presented by affidavit	US$ 4,525.49	October 14, 2014



Summary of the Fund 's activities	
To December 31, 2014	
(in US$)	
Income	
Contributions:	475,000.00
Disbursements from the Fund to beneficiaries (expenses):	(171,092.35)
Sub Total Income	**303,907.65**
Other Income	
Reimbursements by the States:	81,152.23
Interest earned on arrears:	14,241.54
Interest earned on bank accounts :	1,697.78
Sub Total: Other Income	**97,091.55**
Non-reimbursable expenses from the Fund	
Financial administration expenses:	(1,519.29)
Non-reimbursable expenses:	(6,701.15)
Sub Total Non-reimbursable expenses	**(8,220.44)**
Balance of the Fund	**$ 392,778.76**

4. Audit of accounts

The Victims' Legal Assistance Fund has been audited by the external auditors of the Inter-American Court, *Venegas y Colegiados*, representatives of HLB International. In this regard, the audited financial statements for the financial exercises January 1 to December 31, 2010, January 1 to December 31, 2011, January 1 to December 31, 2012, and January 1 to December 31, 2013, have been approved, indicating that, in all important aspects, they present the income and available funds in keeping with generally accepted accounting and auditing principles. The auditor's reports also state that the disbursements have been administered correctly, that no illegal activities or corruption have been discovered, and that the funds have been used exclusively to cover the expenses of the Victims' Fund operated by the Inter-American Court of Human Rights.

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

F. Inter-American Defender

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

In order to implement the concept of inter-American defender, in 2010, the Court signed a Memorandum of Understanding with the Inter-American Association of Public Defenders (hereinafter "the AIDEF"[205]), which entered into force on January 1, 2010. Under this agreement, in those cases in which the presumed victims lack financial resources and/or legal representation before the Court, the AIDEF will appoint a public defender who belongs to the Association to assume their legal representation and defense during the entire proceedings. To this end, when a presumed victim does not have legal representation in a case and indicates his or her wish to be represented by an inter-American defender, the Court will inform the AIDEF General Coordinator so that, within 10 days, the latter may appoint the defender who will assume the legal representation and defense. In addition, the Court will notify the documentation relating to the submission of the case to the Court to the member of the AIDEF appointed as the public defender so that the latter may, from then on, assume the legal representation of the presumed victim before the Court throughout the processing of the case.

As mentioned above, the legal representation before the Inter-American Court by the person appointed by the AIDEF is provided free of charge, and the latter will charge only the expenses arising from the defense. The Inter-American Court of Human Rights will pay the reasonable and necessary expenses that the respective inter-American defender incurs, insofar as possible, and through the Victims' Legal Assistance Fund.

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

To date, the AIDEF has provided legal assistance through this mechanism to six cases, and the Court has already delivered judgment in four of them (*Case of Pacheco Tineo v. Bolivia; Case of Furlan and family members v. Argentina; Case of Mohamed v. Argentina; Case of Argüelles v. Argentina*) and judgment remains to be handed down in the other two (*Case of Canales Huapaya v. Peru,* and *Case of Ruano Torres and family v. El Salvador*).

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

On March 25, 2014, a meeting was held in Washington D.C. between the President of the Court, the Vice President, and the Registrar, Judges Humberto Sierra Porto and Roberto F. Caldas, and Pablo Saavedra Alessandri, respectively, and various members of the AIDEF from different countries. The purpose of the meeting was to evaluate the functioning of the mechanism of Inter-American Defender.

VI. Disseminating the case law and the activities of the Court and taking advantage of the new technologies

A. Presentation of the Court's case law in Portuguese

On October 2, 2014, the volumes containing the Inter-American Court's case law in Portuguese were presented in the "*Salão Negro*" of the Palace of Justice of Brazil. The purpose of the initiative is to disseminate the Court's case law among the Portuguese-speaking population, thereby expanding awareness of it. The seven thematic volumes of case law contain the main judgments delivered by the Court, in the following areas: right to life, amnesties and right to the truth; rights of the indigenous and tribal peoples; economic, social and cultural rights, and discrimination; right to personal integrity; right to personal liberty; right to freedom of expression, and migration, refugees and stateless persons.

The publication of these volumes is a significant and unprecedented event because, previously, very few judgments had been published in Portuguese. In addition, it is particularly relevant, because it will give the Portuguese-speaking population access to the Court's case law by publicizing the Court's precedents, and this will have a direct repercussion on the access to justice of Brazilians.

The volumes were published by the Inter-American Court of Human Rights with the collaboration of the National Secretariat of Justice of the Ministry of Justice of Brazil under a cooperation agreement between the two entities signed by the Inter-American Court and the Embassy of Brazil in Costa Rica.

The ceremony for the presentation of the volumes was attended by Judge Humberto Antonio Sierra Porto, President of the Inter-American Court of Human Rights, and Judge Roberto F. Caldas, Vice President of the Court, as well as by Paulo Abrão, National Secretary of Justice; Gilson Dipp, Justice of the Supreme Court of Justice; Paulo Vannucchi, Commissioner of the Inter-American Commission on Human Rights; Maria Elizabeth Rocha, President of the Supreme Military Court, and Alexandre Ghisleni, Director of the Human Rights Department of the Ministry of Foreign Affairs.

B. Dissemination by the new information and communication technologies (website, social networks, digital file) and Joint Library

The Inter-American Court's website seeks to provide an efficient and user-friendly interface that facilitates access, communication and dissemination of information to the parties and the general public, with the immediacy offered by the new technologies. The website contains all the Court's jurisprudence, as well as other judicial decisions ordered by the Court, and information on the Court's academic and official activities, among other matters.

During 2014, the Inter-American Court made available via its website live transmissions of the public hearings, as well as of different academic and official activities at its seat in San José, Costa Rica, and during the fifty-first special session in Asunción, Paraguay. In 2014, an average of 1,421 persons tuned

in to these live transmissions simultaneously. Moreover, the multimedia gallery has 298 videos with a detailed description of each one.

The Court is also using social networks to disseminate information on its activities, and this will allow it to interact dynamically and efficiently with users of the inter-American system. The Court has Facebook and Twitter accounts. The number of followers using these mechanisms has grown significantly over the last year, totaling 238,506 persons at the close of 2014. In addition, the total number of interactions recorded from January to December 2014 on the Court's Facebook page was 238,498. These figures reveal that the public is very interested in getting to know and share the content of the Court's announcements. These announcements relate to all kinds of different activities of the Court, such as press communiqués, judgments, and orders, live transmission of hearings, and academic activities.

It should be noted that the Court uses electronic means to process the cases it hears. It has also continued to upload all the files on cases in which judgment has been delivered. The uploaded files are available to any interested person on the Court's website.

The Joint Library of the Inter-American Court of Human Rights and the Inter-American Institute of Human Rights is a model library on knowledge management. Covering the whole inter-American system of human rights, and with international scope, the Joint Library provides access to the most specialized bibliographical collection in Latin American with the complete text of numerous resources, access to important databases, and also a mechanism for responding to consultations, virtually and in person, using the new communication technologies such as social networks and instant messaging services. At the same time, the newsletters "*Que hay de nuevo en la Biblioteca*" and "*Noticias de Interés*" are distributed every day by e-mail to more than 6,000 subscribers. The Library has obtained visibility and earned prestige through the use of these dissemination resources. It has positioned itself in the region as an important source of access to knowledge and, as a result, many well-known authors in the field of public international law, human rights and similar topics, send their publications to the Library so that they may be publicized.

VII. Other activities of the Court

A. Other official acts

- On February 24, 2014, the President of the Inter-American Court of Human Rights, Judge Humberto Antonio Sierra Porto, and Judges Eduardo Ferrer Macgregor and Diego García-Sayán met with the President of the Republic of Peru, Ollanta Humala. The meeting was held to discuss the present and future challenges facing the inter-American system for the protection of human rights.

- On March 26, 2014, a delegation of the Inter-American Court, consisting of the President and Vice President of the Court, Judge Humberto Sierra Porto and Judge Roberto F. Caldas, respectively, together with the Secretary, Pablo Saavedra Alessandri, was received by the plenary of the Inter-American Commission on Human Rights in Washington, United States. The meeting took place within the framework of the inter-institutional dialogue between these two organs of the Inter-American system for the protection of human rights in order to outline the position of each organ in relation to some of the current challenges facing the system of petitions and cases, as well as to enhance inter-institutional cooperation in order to improve efficiency in the processing of such petitions and cases.

- On March 26, 2014, the President of the Republic of Chile met with Judge Eduardo Vio Grossi in Santiago de Chile in order to discuss the importance of the inter-American system for the protection of human rights, as well as its present and future challenges.

- On April 9, 2014, the President of the Inter-American Court of Human Rights, Judge Humberto Sierra Porto, accompanied by the Vice President, Judge Roberto F. Caldas, and the Secretary, Pablo Saavedra

Alessandri, presented the 2013 Annual Report of the Inter-American Court to the OAS Commission on Juridical and Political Affairs.

- In May 2014, the Vice President of the Court, Judge Roberto F. Caldas, together with Judge Alberto Pérez Pérez took part in the meeting of the Sub-Committee for Latin American of the Venice Commission and in the international workshop on the role of judges in the protection of economic, social and cultural rights in times of economic crisis in Ouro Preto, Brazil.

- On July 30, 2014, the Secretary-General of the United Nations, Ban Ki-moon visited the seat of the Inter-American Court together with the President of Costa Rica, Luis Guillermo Solis and the Minister for Foreign Affairs, Manuel González Sanz. The Court was represented by its President, Judge Humberto Sierra Porto and Judges Manuel E. Ventura Robles and Diego García-Sayán, as well as the Secretary and the Deputy Secretary of the Court. During this visit, the Secretary-General gave a presentation on "Costa Rica and the United Nations: Challenges and opportunities in the twenty-first century." The video of this presentation can be found on the Court's website at the following link: http://vimeo.com/102170566

- On June 19, 2014, the Vice President, Judge Roberto F. Caldas, participated in the Twentieth Meeting of Presidents and Judges of Constitutional Tribunals, Chambers ad Courts of Latin America organized by the Konrad Adenauer Foundation.

- On August 21, 2014, the Inter-American Court received a courtesy visit from the Minister for Foreign Affairs of Honduras, Mireya Agüero de Corrales, accompanied by Juan Alberto Lara, Ambassador of Honduras to Costa Rica.

- On August 22, 2014, a ceremony was held at the seat of the Inter-American Court during which the Peace University conferred the title of Professor *honoris causa* on Thomas Buergenthal, President and judge of the Inter-American Court, between 1979 and 1991. Dr. Buergenthal, who has also been a judge of the International Court of Justice (2000-2010), received this award "for his distinguished career in international law, as well as for his leadership and commitment to the promotion and protection of human rights."

- On August 25, 2014, the judges of the Inter-American Court received a courtesy visit from the President of the Republic of Costa Rica, Luis Guillermo Solis, accompanied by the Minister for Foreign Affairs Manuel González, with whom they discussed the present and future challenges of the Inter-American Court.

- On August 26, 2014, the President of the Court, Judge Humberto Sierra Porto, and Judges Eduardo Vio Grossi and Eduardo Ferrer Mac-Gregor Poisot, together with Pablo Saavedra Alessandri, Secretary of the Court, received the visit of the Mexican senators Mariana Gómez del Campo, President of the Mexican Senate's Foreign Affairs Committee, María del Pilar Ortega and Luz María Beristain. During this meeting, the importance of collaboration between the legislatures and the Inter-American Court was discussed.

- On September 1 and 2, 2014, during the fifty-first special session held in Paraguay, a delegation consisting of Judges Humberto Antonio Sierra Porto, President of the Court, Roberto F. Caldas, Vice President of the Court, Eduardo Vio Grossi, and Eduardo Ferrer Mac-Gregor Poisot, as well as Pablo Saavedra Alessandri and Emilia Segares Rodríguez, Secretary and Deputy Secretary, respectively, visited the President of the Congress of the Republic of Paraguay, Blas Llano; the Minister for Foreign Affairs of the Republic of Paraguay, Eladio Loizaga; the Prosecutor General of the Republic of Paraguay, Javier Díaz Verón; the Attorney General of the Republic, and the Mercosur Permanent Review Tribunal.

- On September 2, 2014, the President of the Republic of Paraguay, Horacio Cartes Jara, received the President and the Vice President of the Inter-American Court at the Palacio de los López, seat of the Executive in Asunción, Paraguay. During this meeting the judges and the President of Paraguay discussed the general situation of human rights in Latin America, the importance of the inter-American system for the protection of human rights, and the challenges that it faces.

- From October 8 to 11, 2014, an international conference on "The universal abolition of the death penalty" was held at the seat of the Court, organized by the Inter-American Court, the International Institute of Human Rights, and the Permanent Representation of France to the Council of Europe, with the collaboration of the Ministry of Foreign Affairs of France, and the Governments of Germany and the Netherlands. During the conference, the President of the Inter-American Court received the visit of the President of the International Institute of Human Rights, and the former President of the European Court of Human Rights, Jean-Paul Costa.

- On October 13, 2014, the judges of the Court received the visit of the President of the Inter-American Institute of Human Rights (IIHR), Claudio Grossman, and its Executive Director, José Thompson. The same day, they attended the inauguration of the thirty-second Interdisciplinary Course on Human Rights of the IIHR.

- On November 14, 2014, the plenary of the Inter-American Court were present in an act to acknowledge the commitment to the defense and promotion of human rights of the President of the Supreme Court of Justice of the Nation of Mexico, Justice Juan Silva Meza.

- On November 19, 2014, the Inter-American Court received the visit of Chilean Senator Hernán Larraín Fernández.

B. Dialogue among international courts and visit to European institutions

In October 2014, the Court visited the European Court of Human Rights. The delegation of the Inter-American Court consisted of the President of the Inter-American Court, Judge Humberto Sierra Porto; the Vice President, Judge Roberto F. Caldas; Judges Manuel E. Ventura Robles, Diego García-Sayán, Eduardo Vio Grossi and Eduardo Ferrer Mac-Gregor Poisot, as well as Pablo Saavedra Alessandri, Secretary of the Inter-American Court.

During the visit to the seat of the European Court of Human Rights a discussion was held with the Vice Presidents of the European Court, Josep Casadevall and Guido Raimondi, and the judges of that Court, Luis López Guerra, Angelika Nussberger and Paulo Pinto de Albuquerque, as well as with the Registrar of the European Court, Erik Fribergh, the Deputy Registrar, Michael O'Boyle, and Registry officials Patrick Titiun, Montserrat Enrich-Mas, Carmen Morte Gomez and Guillem Cano Palomares.

The visit signified an important effort to continue the joint work of the two international courts in favor of the defense and promotion of human rights on the continents of the Americas and Europe.

On the other hand the Inter-American Court meet with several European instituions, such as the Parliamentary Assembly of the Council of Europe, the Venice Commission, the Department of Jugdments Enforcement of the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degradating Treatment or Punishment. The Inter-American Court also had the opportunity to be present during a session of the European Parliament.

The judges of the Inter-American Court also visited several European institutions in Strasbourg, France. In this regard, on October 21, 2014, the Court's delegation visited the Council Europe and met with a delegation of the Venice Commission that included its President, Gianni Buquicchio.

On the other hand the judges visited the International Human Rights Institute, where they meet with its director and former President of the European Court of Human Rights, Jean Paul Costa.

These visits were made possible by the generous financial support of the German Government through GIZ (*Deutsche Gesellschaft für Internationale Zusammenarbeit*).

C. Training and dissemination activities

Throughout 2014, the Court organized a series of training and dissemination activities on human rights in order to expand the understanding of the functioning of the Court and the inter-American human rights system. These activities are described below:

1. Seminars, conferences and training courses

- On September 4, 2014, during its fifty-first special session, the Inter-American Court held two seminars. The first was entitled "Inter-American justice and jurisprudential dialogue" and was imparted in the auditorium of the Supreme Court of Justice of Paraguay for the general public and more than 500 person attended, including judges, human rights defenders and students. The second, entitled "The role of the Inter-American Court of Human Rights'' was held at the seat of the Ministry of Foreign Affairs and was for prosecutors and students of the Paraguayan Diplomatic Academy.

- In February 2014, several lawyers from the Court's Secretariat participated as instructors in a training program of the Judicial Academy of Costa Rica.

- From June 2 to 5, 2014, two lawyers from the Court's Secretariat participated as instructors in the First International Advanced Specialization Course for judges and prosecutors on "The inter-American system for the protection of human rights in relation to criminal justice," organized by the Ministry of Justice and Human Rights of the Republic of Peru.

- From August 18 to 20, 2014, a training program was held for inter-American public defenders at the seat of the Inter-American Court. During the program, eight defenders of six different nationalities received training on the functioning and case law of the Court.

- From August 4 to 15, 2014, the Inter-American Court organized, together with the Inter-American Commission on Human Rights, the UNAM Institute of Juridical Research, the Ibero-American Institute of Constitutional Law, the Institute of the Federal Judicature, the Office of the UNAM Attorney General, and the Max Planck Institute for Foreign and International Criminal Law, the "Dr. Héctor Fix-Zamudio training course on the Inter-American System of Human Rights," in Mexico City, Mexico.

- From October 8 to 11, 2014, an international conference on "The universal abolition of the death penalty" was held at the seat of the Court. The event was organized by the Inter-American Court, the International Institute of Human Rights, and the Permanent Representation of France to the Council of Europe, with the collaboration of the Ministry of Foreign Affairs of France, and the Governments of Germany and the Netherlands. The event assembled major international experts in this area in order to reflect on the best practices concerning strategies to reduce or abolish the death penalty.

- On October 23 2014, the President of the Court, Judge Humberto Sierra Porto and the Secretary, Pablo Saavedra Alessandri, gave a lecture at the International Law Institute of the University of Bonn, Germany.

- From October 24 to 17, 2014, the judges of the Court took part in the Ibero-American Colloquium "35 years of the Inter-American Court of Human Rights." The event was organized by the Court together with the Max Planck Institute for Comparative Public Law and International Law, in Heidelberg, Germany.

- From October 29 to 31, 2014, the Court, in collaboration with the Federal Electoral Tribunal of the Judiciary of the Nation of Mexico, organized the "Intensive workshop on the inter-American system of human rights."

- The fourth meeting of the Observatory of the Right to Food in Latin America and the Caribbean, held in San José, Costa Rica from November 5 to 7, 2014, was organized by the Universidad de Costa Rica and the Inter-American Court of Human Rights with the support of the Regional Office for Latin America and the Caribbean of the Food and Agriculture Organization of the United Nations (FAO). During the meeting,

Judge Roberto F. Caldas made a presentation on the importance of the right to food, and one of the Secretariat's lawyers gave a talk on "The justiciable nature of human rights and the outlook for its development as regards the right to food in Latin America."

- In November 2014, the Court and the Federal Electoral Tribunal of the Judiciary of the Nation of Mexico organized a workshop on the case law of the Inter-American Court with the participation of one of the Secretariat's lawyers.

- From November 25 to December 6, 2014, the Inter-American Court and the Pontificia Universidad Católica del Peru organized the international specialization course on "Progress and challenges of the inter-American system" in Lima, Peru. The President of the Court, Judge Humberto Sierra Porto, Judge Diego García-Sayán, and the Court's Secretary, Pablo Saavedra Alessandri, participated in the course.

- In December 2014, the judges of the Court took part in a cycle of conferences on the inter-American system held in San José, Costa Rica, and co-organized by the Court, the University for Peace of the United Nations, and the Max Planck Institute of Germany.

2. Program of Professional Visits and Internships

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

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

The interns and visiting professionals are assigned to one of the Court's legal teams, in keeping with the Court's needs. Among other functions, the work consists in researching human rights matters, writing legal reports, analyzing international human rights jurisprudence, collaborating in the processing of the contentious cases, advisory opinions, provisional measures, and monitoring of compliance with the Court's judgments, providing logistical help during the public hearings and developing legal arguments for specific cases.

Owing to the large number of applicants, the competition is intense. At the end of the program, the intern or visitor receives a diploma certifying that he or she has successfully completed the internship or visit. The Court is aware of the importance of its program of internships and professional visits nowadays. Over the last six years, the Court has received at its seat a total of 397 interns, nationals of 40 different countries;[206] in particular, academics, public servants, law students, and human rights defenders.

During 2014, the Court received 63 professional visitors and interns at its seat from the following 16 countries: Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, France, Germany, Mexico, Paraguay, Peru, Spain, United States of America and Venezuela.

Further information on the program of Internships and Professional visits offered by the Inter-American Court of Human Rights is available at:http://www.corteidh.or.cr/index.php/es/acerca-de/programa-pasantias

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

PROGRAM OF PROFESSIONAL VISITS AND INTERNSHIPS
2010 - 2014

317 Interns and professional visitors

34 Countries of 4 different Continents of the world

	2010	2011	2012	2013	2014
GERMANY	2	0	1	0	2
ARGENTINA	8	6	4	6	5
BOLIVIA	1	0	1	0	0
BRASIL	5	4	1	1	3
CANADA	1	1	0	0	1
COLOMBIA	8	7	9	8	9
KOREA	0	1	0	0	0
COSTA RICA	1	4	4	1	2
CHILE	3	2	2	4	3
ECUADOR	1	1	2	3	5
SCOTLAND	0	0	1	0	0
SPAIN	1	2	0	4	3
UNITED STATES	13	5	11	6	7
FRANCE	3	1	2	5	1
GREECE	1	0	0	0	0
GUATEMALA	0	1	2	1	0
HAITI	0	1	0	0	0
NETHERLANDS	0	1	0	0	0
HONDURAS	0	1	0	1	0
ENGLAND	0	1	1	1	0
ITALY	1	2	2	1	0
JAMAICA	0	1	0	0	0
KENYA	0	0	0	1	0
MEXICO	12	9	9	12	18
NORWAY	0	1	0	0	0
PANAMA	0	0	1	0	0
PARAGUAY	0	0	0	0	1
PERU	5	8	3	1	1
POLAND	1	0	0	0	0
PUERTO RICO	0	0	0	1	0
REP. DOMINICAN	2	2	2	4	0
SWITZERLAND	0	0	0	1	0
URUGUAY	0	0	0	1	0
VENEZUELA	0	0	0	2	2

GERMANY	5	COSTA RICA	12	GREECE	1	JAMAICA	1	POLAND	1
ARGENTINA	29	CHILE	14	GUATEMALA	4	KENYA	1	PUERTO RICO	1
BOLIVIA	2	ECUADOR	12	HAITI	1	MEXICO	60	REP. DOMINICAN	10
BRASIL	14	SCOTLAND	1	NETHERLANDS	1	NORWAY	1	SWITZERLAND	1
CANADA	3	SPAIN	10	HONDURAS	2	PANAMA	1	URUGUAY	2
COLOMBIA	41	UNITED STATES	42	ENGLAND	3	PARAGUAY	1	VENEZUELA	4
KOREA	1	FRANCE	12	ITALY	6	PERU	18		

3. Visits of professionals and academic establishments to the seat of the Court

As part of the work of disseminating its activities, and also to allow present and future professionals to learn about the functioning of the Court, each year the Inter-American Court receives delegations of students from different academic establishments, and also professionals in the field of law and other similar areas. During 2014, the Inter-American Court received 45 delegations of university students, lawyers, justices, and civil society organizations,[207] from 10 different countries.[208]

207 Interdisciplinary group of students from the Universidad de Negocios ISEC (Mexico) January 22; Students from the Law School of the Universidad Cristiana del Sur (UCS) (Costa Rica) January 23; ULACIT (Costa Rica) Interdisciplinary visit of students from the Universidad de El Bosque (Colombia) February 18; Students from the Law School of the Universidad de Monterrey (UDEM) (Mexico) April 11; Officers from the Academia Superior de la Policía Nacional de Colombia (Colombia) May 2; lawyers from the Asociación de Abogados de Reinosa AC. (Mexico) May 12 to 30; students from the Faculty of Juridical and Social Sciences, Universidad Rafael Landívar (Guatemala) May 16; students from the School of Juridical Science of the Universidad de Anáhuac, Oaxaca (Mexico); students from the Law School of the Universidad De La Salle Bajío A.C., León, Guanajuato, (Mexico) May 30, 2014; interdisciplinary group of students from the San Diego State University (SDSU) (United States) June 6; students from the Program in Comparative Environmental Law in Costa Rica of the Law School of the Unviersity of Florida (United States) June 24; interdisciplinary group of students from Universidad Veritas (Costa Rica) August 4; doctoral students in law from the Universidad Autónoma del Estado de Morelos (Mexico) May 19 to 23; students from the Law School of the Universidad del Valle de Mexico (Mexico) May 2; Centro de Amigos para la Paz: Visit by activists, Ann Wright and Medea Benjamin (United States) April 23; representatives of the Center for Juridical Science r of the Universidade Federal do Paraná (UFPR), (Brazil) May 13; interdisciplinary group from the Women's Studies Institute of the Philosophy and Arts Faculty, Universidad Nacional (Costa Rica) June 6; students from the summer course on human rights of DePaul University, Chicago (United States) August 14; group of leaders from the Women's Political Training Center of the Instituto Nacional de las Mujeres (INAMU) (Costa Rica) July 24; master's degree and doctoral students from the Law School of the Universidad Autónoma de Sinaloa (Mexico) October 13; students from the Law School of the Universidad de Aguascalientes (Mexico) September 22; students from the Universidad de Cuauhtemoc (Mexico) September 22; interns from the Internship Program of the Inter-American Institute of Human Rights (Costa Rica) September 26; Presidents of the Lawyers' Associations of the Republics of Panama, El Salvador, Guatemala, Honduras and Dominican Republic, October 3; students from the Law School of the western campus of the Universidad de Costa Rica (UCR) (Costa Rica) October 17; students from the Law School of the Universidad Libre de Cartagena (Colombia) October 23; students from the Law School of the Universidad Libre de Pereira (Colombia) November 6; students from the Law School of the Universidad Libre de Bogotá (Colombia) November 13 and 20; participants in the 18th Ibero-American Congress on Law and Informatics (Costa Rica) October 17; justices of the Superior Court of Lima (Peru) November 7; Mexican lawyers during the course of the Instituto Interamericano de Responsabilidad Social and Derechos Humanos (IIRESODH) (Costa Rica-Mexico) November 11; students from the Law School of the Universidad de San José, Liberia campus, Guanacaste (Costa Rica) November 24; master's degree students in Juridical and Criminal Sciences from the Universidad de Guanajuato (Mexico), in the context of their studies in the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD) December 15; Association of students in international relations from the Universidad de Panama (Panama) December 17; in the context of the XVIII Eduardo Jiménez de Aréchaga Competition, organized by the Asociación Costarricense de Derecho Internacional, students from the following establishments visited the Court: Universidad Católica de Santa María (Peru); Universidad Gerardo Barrios, San Miguel campus (El Salvador); Universidad de La Salle (Costa Rica); Corporación Universitaria de Sabaneta (Colombia); Universidad Sergio Arboleda (Colombia); Universidad Nacional Autónoma de Mexico (Mexico); Escuela Libre de Derecho (Mexico); Universidad Católica Andrés Bello (Venezuela); Universidad de Panama (Panama); Universidad del Cauca (Colombia); Universidad Iberoamericana, León (Mexico); Universidad Panamericana, Campus Bonaterra (Mexico); Universidad Santa María La Antigua (Panama); Universidad Militar Nueva Granada (Colombia); Universidad Gerardo Barrios Sede Usulutan (El Salvador), and Universidad de San Pedro Sula (Honduras).

208 Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru and United States of America.

VIII. Agreements and relations with other Entities

During 2014, the Court signed the following agreements with the organizations and entities indicated below.

A. Relations with international organizations

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

In 2014, relations between the Inter-American Court of Human Rights and the European Court of Human Rights were strengthened and supported by an exchange program under which one lawyer from each international organ made a professional visit during several months to conduct research in order to obtain a better knowledge of these two regional systems and to encourage continuing collaboration between the two courts. The Court designated the coordinating lawyer, Romina Sijniensky, to take part in this exchange, while the European Court was represented by the lawyer Guillem Cano Palomares. Both lawyers incorporated work teams and proceedings of the respective court, and carried out activities to divulge the main procedural aspects relating to the management and processing of cases, as well as the case law of the Inter-American Court. In addition, they identified a series of best procedural practices that could be incorporated into the daily tasks of the two courts.

- **Cooperation with the United Nations**

In October 2014, the Inter-American Court took part in the United Nations workshop with regional human rights mechanisms in Geneva, Switzerland, entitled "United Nations and regional mechanisms for the promotion and protection of human rights." This event had particular relevance for coordinating different types of cooperation and dialogue among regional human rights mechanisms and the universal system for the protection of human rights in relation to similar and shared challenges.

B. Agreements with national public institutions

The Court signed framework cooperation agreements with the following entities, under which the signatories agreed to carry out the following activities, *inter alia*, together: (i) organization and implementation of training events, such as congresses, seminars, conferences, academic forums, colloquiums, symposiums; (ii) specialized internships and professional visits to the seat of the Inter-American Court of Human Rights for Judiciary officials; (iii) joint research activities; (iv) making available to the Judiciary the advanced human rights search engine, providing the respective training, and allowing the Judiciary to log on to the Court's systematized case law:

- Ministry of Justice and Human Rights of the Republic of Peru.
- Electoral Tribunal of the Federal Judiciary of Mexico
- Judiciary of the state of Michoacán
- Ombudsman of the Plurinational State of Bolivia
- Ombudsman of the Republic of Panama

C. Agreements with universities and other academic establishments

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

- Max Planck Institute
- Universidad Autónoma de Querétaro, Mexico
- Cambridge University
- Observatory of the Right to Food in Latin America and the Caribbean of the Food and Agriculture Organization of the United Nations (FAO)
- Universidad Federal del Paraná, Brazil
- Universidad Nacional de Mar del Plata, Argentina
- Conference of Ministers of Justice of the countries of Ibero-America (COMJIB)
- Universidad de Chihuahua, Mexico
- International Human Rights Institute