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I. Foreword

On behalf of the judges of the Inter-American Court of Human Rights, I have the honor to present the 2016 Annual Report, which describes the most significant tasks accomplished during the year and the most relevant case law on human rights.

The year began with a ceremony to inaugurate the 2016 judicial year attended by a wide range of dignitaries. In addition, an international seminar was held entitled: "San José: the human rights capital," with the participation of national and international judges, high-level national authorities, experts, lawyers and students, among others. The idea behind the ceremony was to present the Inter-American Court as a court that was transparent, impartial and open to dialogue. On that occasion, we were able to introduce the new composition of the Court and its new Board, which entered into functions in January 2016. Thus, we were able to again count on the presence of Judge Humberto Antonio Sierra Porto and also, due to his re-election, on the inimitable presence of Judge Eduardo Vio Grossi, as well as on the extensive experience and expertise of our new colleagues, Elizabeth Odio Benito, Raúl Zaffaroni and Patricio Pazmiñoi. Moreover, at the beginning of 2016, I assumed the challenge of presiding this collegial body until 2017, together with the Vice President, Eduardo Ferrer MacGregor.

Even though this has been a year that presented major challenges to the inter-American jurisdiction, with a complex financial situation and an austerity plan to ensure that we were able to continue working satisfactorily, we continued to hold the same number of collegial sessions with all the Court's members. The Court delivered 21 judgments and made a significant effort to reduce the duration of each case submitted to its jurisdiction, because a reasonable time is a basic guarantee in the administration of justice. In this way, in 2016, the average duration of a case was 20 months, which is less than the 22 months in 2015, and the 24 months in 2014.

These judgments allowed the Court to develop important case law dealing with innovative human rights issues and, today, this forms part of the inter-American juridical patrimony. Contemporary slavery and human-trafficking, two egregious problems that affect our societies, were the grounds for a ruling by the Court that allowed it to develop these concepts for the first time, and to provide content to the

international obligations of the States in this regard. The Court also developed the issue of informed consent in the medical practice of female sterilization; an essential requirement, based on respect for a woman's autonomy and liberty. Moreover, we affirmed our case law on the importance of an adequate gender perspective in any matter that has an impact on the rights of women. Discrimination against same-sex couples in relation to patrimonial rights was another important issue developed. In that regard, we reiterated our position that no law, act or practice may reduce or restrict in any way the rights of a person based on his or her sexual orientation. These rulings were joined by others on issues that the Court has already developed such as procedural guarantees, forced displacement, enforced disappearances, and the rights of indigenous peoples.

In the course of 2016 we held seven sessions, two of them away from the Court in Mexico City and Quito. I would like to highlight and express my appreciation for the hospitality of the Mexican and Ecuadorian people, who welcomed us with open arms. The invitation to attend the public hearings allowed several thousand people to witness the work of the Court and revealed the persistent interest in human rights, while encouraging us to reaffirm our commitment to their defense and promotion.

During the hearings in 2016, which took place at the seat of the Court and in the territory of other Member States, the Court held 16 public hearings on contentious cases, 7 hearings on monitoring compliance with judgment, and one public hearing on provisional measures; it also carried out one evidentiary procedure in Brazil in the context of processing a contentious case. Moreover, for the first time this year an on-site procedure was carried out in Brazil during which a delegation from the Court was able to observe directly the conditions of the persons deprived of liberty in the Curado Prison Complex.

In addition, the Court's advisory function was rekindled in 2016 with the issue, at the request of the Republic of Panama, of an advisory opinion on the entitlement of legal entities to hold rights under the inter-American human right system. Furthermore, three requests for advisory opinions were submitted by Colombia, Costa Rica and Ecuador. These refer to important issues, such as: the impact of major projects on the marine environment; the rights derived from gender identity; the protection of the patrimonial rights of same-sex couples, and the institution of asylum and the possibility of its recognition as a human right. It is evident that these three requests

for advisory opinions, together with the 16 new contentious cases that were submitted by the Inter-American Commission in 2016, as well as those that are still being processed relate to important and groundbreaking human rights issues that will allow the Court to provide content to the rights recognized in the American Convention, as well as to continue contributing to an adequate protection for the peoples of our region.

During 2016, we also continued to pursue the judicial and institutional dialogue with national and international courts, as well as with national authorities and institutions in order to advance along the road towards the effective protection of human rights, which is our common task. Working with the States in order to provide guidance on their international obligations, within our sphere of competence, is one of our main priorities, together with supporting victims of human rights violations by protecting their rights.

Clearly, 2016 was a year filled with challenges and hard work during which we reaffirmed our commitment to the peoples and institutions of the Americas in a spirit of dialogue and openness, which the Inter-American Court has assumed as one of the main ways of achieving its task of defending and promoting the human rights of all the inhabitants of the Americas.

Roberto F. Caldas
President of the Inter-American Court of Human Rights
December 31, 2016

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,” with the mandate of interpreting and applying 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 may be re-elected.⁴

The Court began 2016 with a new composition.⁵ The mandates of Judges Manuel E. Ventura Robles (Costa Rica), Diego García-Sayán (Peru) and Alberto Pérez Pérez (Uruguay) ended on December 31, 2015. During the forty-fifth OAS General Assembly, held in June 2015, Judge Eduardo Vio Grossi (Chile) was re-elected and three new judges were elected. The new judges are: Elizabeth Odio Benito (Costa Rica), Eugenio

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

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. Since the Court had a new composition in 2016, the Court continued to hear the cases of *Yarce v. Colombia*, *Chinchilla v. Guatemala* and *Duque v. Colombia* with its previous composition consisting of Judges Roberto F. Caldas, President; Eduardo Ferrer Mac-Gregor Poisot, Vice President; Manuel Ventura Robles; Diego García-Sayán; Alberto Pérez Pérez, Eduardo Vio Grossi and Humberto Antonio Sierra Porto. Pursuant to Article 54(3) of the American Convention and Article 5 of the Rules of Procedure, the judgments in these cases were delivered by the said judges. In addition, based on Article 19(1) of the Rules of Procedure, Judge Humberto Antonio Sierra Porto did not take part in the cases of *Duque v. Colombia* or *Yarce v. Colombia*.

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

5 In 2015, the composition of the Court was as follows: 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), and Eduardo Ferrer Mac-Gregor Poisot (Mexico).

Raúl Zaffaroni (Argentina) and Patricio Pazmiño Freire (Ecuador); their mandates commenced on January 1, 2016, and will end on December 31, 2021. In addition, during the Court's 112th session held in Costa Rica from November 23 to 27, 2015, the Plenum of the Court elected Judge Roberto F. Caldas as its President, and Judge Eduardo Ferrer Mac-Gregor as its Vice President. The mandate of the Court's new Board began on January 1, 2016, and will end on December 31, 2017.

Thus, in 2016, the composition of the Court was as follows (in order of precedence⁶):

- Roberto de Figueiredo Caldas (Brazil), President
- Eduardo Ferrer Mac-Gregor Poisot (Mexico), Vice President
- Eduardo Vio Grossi (Chile)
- Humberto Antonio Sierra Porto (Colombia)
- Elizabeth Odio Benito (Costa Rica)
- Eugenio Raúl Zaffaroni (Argentina), and
- Patricio Pazmiño Freire (Ecuador)

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).

⁶ 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."



First row from left to right: Judge Humberto Antonio Sierra Porto, Judge Eduardo Ferrer Mac-Gregor (Vice President); Judge Roberto F. Caldas (President); Judge Eduardo Vio Grossi; Judge Elizabeth Odio Benito. Second row: Judge Raúl Zaffaroni and Judge Patricio Pazmiño Freire.

C. States Parties

Of the 35 Member States of the OAS, 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 (I) contentious functions; (II) powers to order provisional measures, and (III) an advisory function.

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 has four phases, which include six actions:

- (1) Initial written phase
- (2) Oral phase or public hearing;
- (3) Final written arguments of the parties and observations of the Commission;
- (4) Evidentiary procedure
- (5) Deliberations and delivery of judgment, and
- (6) Interpretation requests

(1) Initial written phase

1.1 Phase of submission of the case by the Commission⁷

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*:⁸

- 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.⁹ During this stage, a judge rapporteur is appointed to the case and, with the support of the Court's Secretariat and together with the President of the Court, he examines the respective case.

1.2 Presentation of the brief with pleadings, motions and evidence by the presumed victims

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

⁷ According to Article 61 of the American Convention, States also have the right to submit a case to the Court to decide, in which case the provisions of Article 36 of the Rules of Procedure of the Court will be observed.

⁸ Rules of Procedure of the Inter-American Court of Human Rights, Article 35.

⁹ Ibid. Article 38.

annexes to submit their autonomous brief with pleadings, motions and evidence. This brief must include, *inter alia*:¹⁰

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

1.3 Presentation of the brief answering the two preceding briefs by the defendant State and the briefs responding to the preliminary objections filed by the State, when applicable

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 the representatives of the presumed victims, indicating, *inter alia*:

- Whether it accepts the facts and the claims or contests them;
- The evidence offered, in the correct order, indicating the facts and the arguments to which it relates, and
- The legal arguments, 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.¹¹ 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.¹²

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.

10 Ibid. Article 40.

11 Ibid. Article 41.

12 Ibid. Article 42(4).

After the brief submitting the case, the brief with pleadings, motions and evidence, and the State's answering brief have been received, 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.¹³

(2) Oral phase or public hearing

The parties are requested to submit their final lists of deponents and when these have been received, they are forwarded to the other party so that the latter may send its observations and, when appropriate, any objections it deems pertinent.¹⁴

Then, based on the observations made by the parties, and having analyzed these and the information in the case file, the President of the Court issues an "Order calling for a hearing" in which 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 his 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.¹⁵ The hearings are public unless the Court considers it desirable that they be totally or partially private.¹⁶ For example, in the case of *Genoveva et al. (Favela Nova Brasilia) v. Brazil*, the Court heard the testimony of one presumed victim in private during the hearing held in Quito, Ecuador, during its fifty-sixth special session.

The public hearing begins with a presentation by the Commission in which it 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.¹⁷ The judges of the Court then hear the presumed victims, witnesses and expert witnesses convened by the above-mentioned order, who are

13 Ibid, Article 43.

14 Ibid, Article 47.

15 Ibid, Article 50.

16 Ibid, Article 15.

17 Ibid, Article 51.

examined by the parties and, if appropriate, by the judges. The Commission may examine certain expert witnesses in exceptional circumstances in 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 victims or their representatives, and the State the opportunity for a reply and a rejoinder. Once the arguments have been submitted, the Commission presents its final observations and then the judges pose their concluding question to the representatives, the victims and the Inter-American Commission.¹⁸ This hearing usually lasts a day and a half and is transmitted online via the Court's website.

Public hearings may be found [here](#).

(3) Phase of written arguments of the parties and observations of the Commission

During this phase, 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.

1.4 Evidentiary procedures

Pursuant to Article 58 of its Rules of Procedure, the Court may, "at any stage of the proceedings," require the following evidentiary procedures, without prejudice to the arguments and documentation submitted by the parties: (1) obtain, on its own motion, any evidence it considers helpful and necessary; (2) request the submission of any evidence or any explanation or statement that, in the Court's opinion, may be useful; (3) request 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, and (4) commission one or more of its members to take steps to advance the proceedings, including hearings at the seat of the Court or elsewhere.

¹⁸ Ibid. Article 51.

For example, during 2016, the Court carried out a judicial evidentiary procedure in Brazil in the course of processing a contentious case. This procedure took place in Brasilia, where a commission consisting of the acting President, Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Eugenio Raúl Zaffaroni, Judge Patricio Pazmiño, the Secretary Pablo Saavedra and one of the Secretariat's lawyers heard the statements and testimony of the presumed victims in the case of *Workers of Hacienda Brasil Verde v. Brazil* and State agents in charge of combating slavery.

(4) Phase of deliberation and delivery of judgment

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 to the full Court for its consideration. The judges deliberate on this draft judgment for several days during one of the sessions. Nevertheless, 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 section by section 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. After the Court has delivered the judgment, it is published and notified to the parties.

1.5 Interpretation and rectification requests

The judgments handed down by the Court are final and non-appealable.¹⁹ Nevertheless, the parties have three months in which they may request clarification of the meaning or scope of the judgment in question. The Court will elucidate this in an interpretation 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.²⁰ In addition, the Court may, on its own motion, 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 and the parties shall be notified if a rectification is made.²¹

19 American Convention on Human Rights, Article 67.

20 Ibid. Article 67.

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

1.6 Stage of monitoring compliance with judgment

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 implemented and complied with.

Monitoring compliance with the Court's judgments implies, first, that it must periodically request information from the States on the steps 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

Various activities are carried out during this stage in order to determine the degree of compliance with the measures of reparation ordered. These activities include hearings, on-site procedures, and the issue of orders.

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 was also noted by the OAS General Assembly in its 2013 resolution on "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights," in which the General Assembly recognized "that the private hearings

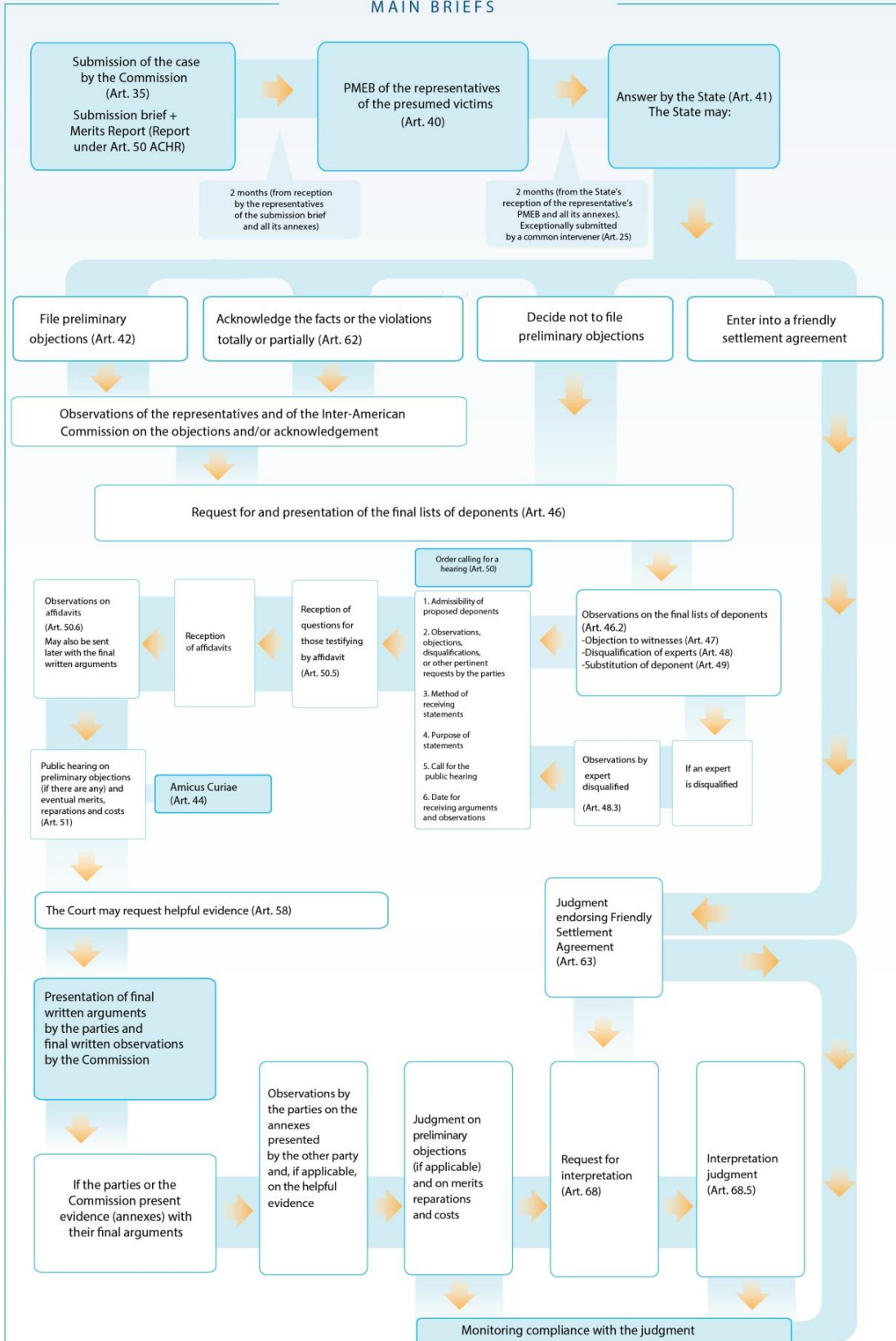
held on the monitoring of compliance with the Court's judgments have been important and constructive and have yielded positive results."²²

Also, in 2015, the Court initiated the practice of holding hearings on monitoring compliance with judgment in the territory of the States, as well as on-site monitoring visits. On September 2, 2016, the Court held two private hearings on monitoring compliance with judgment in Mexico with regard to the cases of *Radilla Pacheco*, and *Cabrera García and Montiel Flores*, both against Mexico.

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

OUTLINE OF THE PROCEDURE BEFORE THE IACHR

MAIN BRIEFS



ACHR: American Convention on Human Rights

PMEB: Pleadings, motions and evidence brief

Affidavit: Sworn statement authenticated by notary public

Amicus Curiae: May be presented at any time following submission of the case up until 15 days after the hearing

2. Authority to order provisional measures

According to the American Convention, provisional measures of protection are ordered by the Court to order to guarantee the rights of specific individuals or groups of individuals who are in a situation of extreme gravity and urgency, and when necessary to prevent them from suffering irreparable harm,²³ above all to the rights to life and to personal integrity. Three requirements must be met for the Court to grant such measures: extreme gravity, urgency, and the risk of irreparable harm. These requirements must be substantiated satisfactorily for the Court to decide to grant such measures to 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* at any stage of the proceedings.

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 comments made by the beneficiaries.²⁴ 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 hearing²⁵ 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 precise information on the status of compliance with each measure decided in its judgments and orders; encourages the States to take

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

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

25 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.

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 that Organization on the interpretation of the American Convention or other treaties for the protection of human rights in the States of the Americas. 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 22 advisory opinions, which have given it the opportunity to rule on essential issues related to the interpretation of the American Convention and other treaties concerning the protection of human rights

At the present time, the Court is examining requests for an advisory opinion presented by the Republics of Colombia, Costa Rica and Ecuador.

All the advisory opinions issued to date can be found [here](#).

26 Ibid. Article 64.

III. Sessions held in 2016

A. Introduction

The Court holds plenary meetings during its scheduled sessions each year. These plenary meetings are held in both San José, Costa Rica, and away from the Court's seat. In the course of each session, the Court carries out activities such as:

- holding hearings and delivering judgments in contentious cases;
- holding hearings and issuing orders on monitoring compliance with judgment;
- holding hearings and issuing orders on provisional measures,
- dealing with different procedures in matters pending before the Court, as well as administrative matters, and
- meeting with national and international authorities.

B. Summary of the sessions

During 2016, the Court held four regular sessions, and three special sessions. They were held in San José, Costa Rica, Mexico City, Mexico, and Quito, Ecuador. Details of these sessions appear below.

113th regular session

On February 15, the inter-American judicial year was inaugurated at the start of the 113th regular session, which was held from February 15 to March 2, 2016, in San José, Costa Rica. The Court's new Board was symbolically installed and the new judges sworn in during the ceremony, which was held in the auditorium of the Costa Rican Lawyers' Professional Association. The President of the Court, Judge Roberto F. Caldas, emphasized that this inaugural ceremony, attended by more than 400 persons, "symbolizes our Court's endeavor to increase dialogue with civil society and its representatives, as well as with the States and their institutions, domestic and international courts, and academia." Among other prominent participants, the event was attended by the President of the Republic of Costa Rica, Luis Guillermo Solís and

the Secretary General of the OAS, Luis Almagro Lemes; the President of the African Court of Human and Peoples' Rights, Agustino Ramadhani; the President of the International Criminal Court, Silvia Fernández; the President of the Caribbean Court of Justice, Sir Charles Michael Dennis Byron, and the President of the Third Section of the European Court of Human Rights, Luis López Guerra, as well as senior government authorities, members of domestic and international courts, and representatives of civil society.



In addition, the Court organized a seminar entitled "Significant achievements and perspectives of the Inter-American Court of Human Rights in a global world," which was held in the auditorium of the Costa Rican Lawyers' Professional Association and in the Court's courtroom. Participants in the seminar included senior judicial authorities of the Americas, presidents of international courts, and experts in the matter.

The Plenum of the Court held a meeting with the OAS Secretary General in order to discuss the existing institutional challenges, as well as the Court's budgetary situation. In addition, agreements were signed with the International Criminal Court in order to

combine efforts for activities of mutual interest, including the exchange of personnel between the two courts.



During this session, the Court held five public hearing on contentious cases.²⁷ It also delivered two judgments on contentious cases,²⁸ one advisory opinion,²⁹ three orders on provisional measures³⁰ and three orders on monitoring compliance with judgment.³¹

27 Case of Flor Freire v. Ecuador; Case of the Workers of Hacienda Brasil Verde v. Brazil; Case of Zegarra Marín v. Peru; Case of Tenorio Roca et al. v. Peru and Case of Herrera Espinoza et al. v. Ecuador.

28 Pursuant to Article 54(3) of the American Convention and Article 5 of the Rules of Procedure, these judgment were delivered by the previous composition of the Court consisting of Judges Roberto F. Caldas, President; Eduardo Ferrer Mac-Gregor Poisot, Vice President; Manuel Ventura Robles; Diego García-Sayán; Alberto Pérez Pérez, Eduardo Vio Grossi and Humberto Antonio Sierra Porto. In accordance with Article 19(1) of the Rules of Procedure Judge Humberto Antonio Sierra Porto did not take part in the cases of Duque v. Colombia. Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312 and Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of February 26, 2016. Series C No. 310.

29 Entitlement of legal entities to hold rights under the inter-American human right system (Interpretation and scope of Article 1(2) in relation to Articles 1(1), 8, 11(2), 13, 16, 21, 24, 25, 29, 30, 44, 46, and 62(3) of the American Convention on Human Rights, as well as of Article 8(1)(a) and (b) of the Protocol of San Salvador). Advisory Opinion OC-22/16 of February 26, 2016. Series A No. 22.

30 Case of Fernández Ortega et al. v. Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of February 23, 2016; Case of Rosendo Cantú et al. v. Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of February 23, 2016 and Case of Nadege Dorzema et al. v. Dominican Republic. Request for provisional measures. Order of the Inter-American Court of Human Rights of February 23, 2016.

31 Case of Artavia Murillo et al. ("In vitro fertilization") v. Costa Rica. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 26, 2016; Case of the Human Rights Defender et al. v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 23, 2016; Case of the Barrios family v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 23, 2016.

114th regular session



The Court held its 114th regular session in San José, Costa Rica, from April 21 to 4 May, 2016. During the session, the Court held three public hearings on contentious cases³² and three private hearings on monitoring compliance with judgment.³³ In addition, it delivered one judgment on preliminary objections, merits, reparations and costs³⁴ and three orders on monitoring compliance with judgment.³⁵

The Court also received a visit from the Secretary General of the *Union of South American Nations* (UNASUR), Ernesto Samper. Among other matters, discussions were held on the challenges faced by the Inter-American Court to ensure that it can continue to function satisfactorily, as well as the importance of dialogue between the

32 Case of Pollo Rivera et al. v. Peru; Case of the Members of the Village of Chichupac and neighboring communities of the Municipality of Rabinal v. Guatemala, and Case of I.V. v. Bolivia.

33 Case of the Massacres of El Mozote and neighboring places v. El Salvador; joint hearing for the cases of Fernández Ortega et al. and Rosendo Cantú et al., both against Mexico, and joint hearing for the cases of Raxcacó Reyes and Fermín Ramírez, both against Guatemala.

34 Case of Maldonado Ordoñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311.

35 Case of Salvador Chiriboga v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 3, 2016; Case of the Massacres of El Mozote and neighboring places v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 3, 2016, and Case of Véliz Franco et al. v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 3, 2016.

Court and UNASUR. Subsequently, the UNASUR Secretary General gave a talk on "UNASUR: Human rights and integration" at the seat of the Court.



Fifty-fourth special session



The Court held its fifty-fourth special session in San José, Costa Rica, from June 20 to 24, 2016. During this session, it held two public hearings on contentious cases³⁶ and one joint private hearing on monitoring compliance with judgment.³⁷ It also delivered one judgment on preliminary objections, merits, reparations and costs³⁸ and another on interpretation of judgment,³⁹ and issued six order on monitoring compliance with judgment⁴⁰



36 Case of Vereda la Esperanza v. Colombia and Case of Andrade Salmón v. Bolivia.

37 Case of the Serrano Cruz Sisters and case of Contreras et al., both against El Salvador.

38 Case of Tenorio Roca et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of June 22, 2016. Series C No. 314.

39 Case of Wong Ho Wing v. Peru. Interpretation of the Judgment on preliminary objection, merits, reparations and costs. Judgment of June 22, 2016. Series C No. 313.

40 Case of the 19 Traders v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 23, 2016; Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 23, 2016; Case of the Kichwa Indigenous People of Sarayaku v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 22, 2016; Case of the Constitutional Tribunal (Camba Campos et al.) v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 23, 2016; Case of Baldeón García v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 22, 2016, and Case of Wong Ho Wing v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 22, 2016.

Fifty-fifth special session



The Court held its fifty-fifth special session in Mexico City, Mexico, from August 22 to September 2, 2016.

Previously, on August 19, the Court's judges gave simultaneous itinerant seminars in Guadalajara, Jalisco; Tijuana, Baja California; Toluca, State of Mexico, and Zacatecas, Zacatecas. On August 22, an inaugural ceremony was held at the Supreme Court of Justice of the Nation in the presence of senior Mexican authorities, including the Interior Minister, Miguel Ángel Osorio Chong, and the justices of the Supreme Court.

Around 4,500 persons attended the public hearings. In addition, the live transmission by the judicial channel of the Supreme Court of Justice of the Nation and on the website of the Inter-American Court allowed a further 7,000 persons to follow them virtually. During this session, the Court held three public hearings of contentious cases,⁴¹ one public

41 Case of Vásquez Durand et al. v. Ecuador; Case of Gutiérrez Hernández et al. v. Guatemala, and Case of Valencia Hinojosa et al. v. Ecuador.

hearing on provisional measures⁴² and two private hearings on monitoring compliance.⁴³ It also delivered two judgments,⁴⁴ and issued nine orders on monitoring compliance with judgment⁴⁵ and one order on provisional measures.⁴⁶



In addition, an international seminar was held on “Domestic and international law: shared challenges” in the main auditorium of the Congress Center of the Siglo XXI

42 Case of the La Rochela Massacre v. Colombia.

43 Cases of Radilla Pacheco, and Cabrera García and Montiel Flores, both against Mexico.

44 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, and Case of Herrera Espinoza et al. v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of September 1, 2016. Series C No. 316.

45 Case of Ticona Estrada et al. v. Bolivia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of Palamara Iribarne v. Chile. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of Zambrano Vélez et al. v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of Contreras et al. v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of the Serrano Cruz Sisters v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of García Cruz and Sánchez Silvestre v. Mexico. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of Castillo Petrucci et al. v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016; Case of the Punta Piedra Garífuna Community and its members and the Triunfo de la Cruz Garífuna Community and its members v. Honduras. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 1, 2016, and Case of the Yakye Axa, Sawhoyamaya and Xákmok Kásek Indigenous Communities v. Paraguay. Monitoring compliance with judgment. Order of the President of the Inter-American Court of Human Rights of September 1, 2016.

46 Matter of the Inhabitants of Communities of the Miskitu Indigenous People of the Northern Caribbean Coastal Region with regard to Nicaragua. Provisional measures. Order of the Inter-American Court of Human Rights of September 1, 2016.

National Medical Center on August 26, 2016, attended by 1,200 persons. The judges of the Inter-American Court took part in the seminar together with Mexican judicial authorities and public officials, and also eminent Mexican and international experts.

In addition, the full Court met with the President of Mexico, Enrique Peña Nieto, at the Los Pinos Palace. During this meeting, the Inter-American Court thanked the President of the Republic for his invitation to hold a session in Mexican territory. A discussion was held on human rights in Mexico; in particular, their evolution, regulation and interpretation in case law. The full Court also visited the Senate of the Republic of Mexico in order to discuss opportunities for dialogue between the Inter-American Court and national legislatures. The importance of adopting legislative norms that ensured the funding of the Inter-American Court by the States was also discussed during this meeting. Additionally, the President of the Court and the Attorney General of the Republic signed a collaboration agreement that included different activities such as training on international human rights law, the organization of congresses, seminars and forums, the elaboration and implementation of projects, studies and programs, and international professional visits. A meeting was also held with the Mexican Interior Minister in order to discuss the importance of the Inter-American Court's case law when the national executive authorities adopt public policies. Following this meeting, a collaboration agreement was signed with the National Commission for the Prevention and Eradication of Violence against Women, the domestic institution responsible for designing the national policy to promote a culture of respect for the human rights of Mexican women and to eradicate violence against them.

The Inter-American Court also gave its support to the UN Women's campaign "HeForShe, which seeks to make people aware of the importance of gender equality in society. The full Court met the members of the Electoral Tribunal of the Federal Judiciary in order to coordinate collaboration between the two entities and signed a cooperation agreement on mutual assistance. Similarly, the Inter-American Court met with the regional representative for Mexico, Central America and Cuba of the International Committee of the Red Cross (ICRC). The purpose of the meeting was to discuss existing collaboration between the two institutions and ways to improve this, as well as issues related to international human rights law and international humanitarian law.

Other activities during this session included discussions between the Inter-American Court and 27 heads of the autonomous state human rights agencies in order to share experiences and legal opinions on how to implement the international standards established in the Court's case law in the daily tasks of the ombudspersons. Also, the full Court and its Secretaries met with the inspector generals of the National Human Rights Commission and other members of this institution in order to exchange views and share experiences on the implementation of the international human rights standards established by the Inter-American Court, as well as the best way to implement the Court's case law in local procedures. Lastly, the Inter-American Court's judges and officials took part in the "Hector Fix-Zamudio" diploma course on the inter-American system held at the Universidad Autónoma de Mexico.

Fifty-sixth special session



The Court held its fifty-sixth special session in Quito, Ecuador, from October 10 to 14, 2016. The inaugural ceremony took place at the seat of UNASUR, and speeches were

given by the President of the Republic of Ecuador, Rafael Correa; the President of the Inter-American Court, Judge Roberto F. Caldas; the Minister of Justice, Ledy Zuñiga Rocha, and the Secretary General of UNASUR, Ernesto Samper. The event was attended by senior government authorities, the diplomatic corps accredited to Ecuador, members of academia and representatives of civil society organizations. The public hearings, which were held from October 10 to 13, in the Pablo Neruda Room of the UNASUR Building in Mitad del Mundo, Ecuador, were attended by more than 5,000 persons.

During the session, the Court held three public hearings on contentious cases⁴⁷ and, in collaboration with the Ministry of Justice, Human Rights and Worship, as well as with the Ecuadorian Constitutional Court, conducted an international seminar on the case law of the Inter-American Court and its impact in Latin America.

During the visit, the Plenum of the Inter-American Court met with the President of Ecuador, Rafael Correa Delgado, who underscored the importance of the Inter-American Court and its impact on the defense and promotion of human rights in the Americas. The full Court also visited the Constitutional Court. During that visit, the President of the Inter-American Court indicated the need to encourage cooperation between national and international courts. Meanwhile, the President of the Constitutional Court reaffirmed his commitment to using the Inter-American Court's case law when taking decisions at the national level. The President of the Inter-American Court visited the National Assembly of Ecuador, where he met with its President in order to discuss opportunities for dialogue between the Inter-American Court and domestic legislatures. Discussions also related to the importance of adopting legislative provisions that ensure the funding of the Inter-American Court by the States. During the meeting, a cooperation agreement was signed under which the Court and the Ecuadorian legislature agreed to strengthen and coordinate efforts to disseminate, defend and implement the protection of human rights. Subsequently, the President of the Court held a meeting with the President and officials of the Council of the Judiciary, during which the President of the Council outlined the objectives of the transformation of justice in Ecuador, known as the Strategic Plan of the Judicial Function, and the way in which it was being implemented. The President of the Court referred to the possibility of mutual support between the two institutions.

47 Case of Acosta et al. v. Nicaragua; Case of the Dismissed Employees of PetroPerú et al. v. Peru, and Case of Genoveva et al. (Favela Nova Brasilia) v. Brazil.

During this session, the President of the Court also visited the Court of Justice of the Andean Community, where he met with its justices. During the meeting the importance of collaboration between international courts was stressed, as well as opportunities for collaboration on human rights issues between the inter-American human rights system and the Andean integration system. The justices expressed their appreciation for the President's visit as a first step to establish a channel for dialogue which could result in a future collaboration agreement between the two entities.

Agreements were also signed by the Inter-American Court with the National Court of Justice of Ecuador, the Universidad Técnica de Ambato, and the Universidad Central.



115th regular session

The Court held its 115th regular session in San José, Costa Rica, from October 17 to 21, 2016. During this session the Court delivered one judgment on preliminary objections, merits, reparations and costs⁴⁸ and one judgment on merits, reparations and costs,⁴⁹ and issued three orders on monitoring compliance with judgment.⁵⁰

In addition, the Court received a visit from the Deputy Minister of Foreign Affairs of Norway, with whom it discussed the challenges faced by the Court, and its budgetary situation. During this meeting a cooperation agreement was signed under which the Kingdom of Norway will provide financial support to the Inter-American Court.

The Court also received a visit from an Austrian Parliamentary Delegation and signed agreements with the Ibero-American Federation of Ombudsmen (FIO), the Costa Rican Ombudsman, the Supreme Court of Justice of the state of Sinaloa, Mexico, and the Judiciary of the Republic of Panama.

48 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C. No. 318.

49 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319.

50 Case of the Afrodescendant Communities displaced from the Rio Cacarica Basin (Operation Genesis) v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of October 20, 2016; Case of the "Five Pensioners" v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of October 20, 2016, and 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 October 20, 2016.

116th regular session



The Court held its 116th regular session in San José, Costa Rica, from November 21 to December 2, 2016. During this session, the Court held one hearing on monitoring compliance with judgment⁵¹ and delivered six judgments on preliminary objections, merits, reparations and costs,⁵² five interpretation judgments,⁵³ four orders on provisional measures⁵⁴ and ten orders on monitoring compliance with judgment.⁵⁵

⁵¹ Case of the Kichwa Indigenous People of Sarayaku v. Ecuador.

⁵² Case of Yarce et al. v. Colombia Preliminary objections, merits, reparations and costs. Judgment of November 22, 2016. Series C No. 325; Case of Gómez Murillo et al. v. Costa Rica. Judgment of November 29, 2016. Series C No. 326; Case of Valencia Hinojosa et al. v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of November 29, 2016. Series C No. 327; . Case of Members of the Village of Chichupac and neighboring communities of the Municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328; Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C. No. 229; Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330.

⁵³ Case of Quispialaya Vilcapoma v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 320; Case of Canales Huapaya et al. v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 321; Case of Duque v. Colombia. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322; Case of Galindo Cárdenas et al. v. Peru. Interpretation of the judgment preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 323; Case of the Santa Bárbara Campesino Community v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 324.

⁵⁴ Matter of the Inhabitants of Communities of the Miskitu Indigenous People of the Northern Caribbean Coastal Region with regard to Nicaragua. Provisional measures. Order of the Inter-American Court of Human Rights of November 23, 2016; Matter of the Curado Prison Complex with regard to Brazil. Provisional measures. Order of the Inter-American Court of Human Rights of November 23, 2016; Matter of José

Session	Hearings Contentious Cases	Hearings of Provisional measures	Hearings Monitoring Compliance	Judgments contentious cases	Interpretation Judgment	Orders Provisional measures	Orders Monitoring Compliance	Advisory opinions
113 RS	5			2		3	3	1
114 RS	3		3	1			3	
54 SS	2		1	1	1		6	
55 SS	3	1	2	2	1	9		
56 SS	3							
115 RS				2			3	
116 RS			1	6	5	4	10	

Luis Galdámez Álvarez et al. with regard to Honduras. Provisional measures. Order of the Inter-American Court of Human Rights of November 23, 2016; Matter of Gladys Lanza Ochoa with regard to Honduras. Provisional measures. Order of the Inter-American Court of Human Rights of November 23, 2016.

55 Case of the Human Rights Defender et al. v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of Fontevecchia and D'Amico v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of García and family members v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of Argüelles et al. v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Cases of Chocrón Chocrón, Díaz Peña, and Uzcátegui et al. v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of Tibi v. Ecuador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights November 22, 2016; Case of Escué Zapata v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of the Barrios family v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 22, 2016; Case of the Landaeta Mejías Brothers et al. v. Venezuela. Order of the Inter-American Court of Human Rights of November 22, 2016; and Case of Fleury v. Haiti. Order of the Inter-American Court of Human Rights of November 22, 2016.

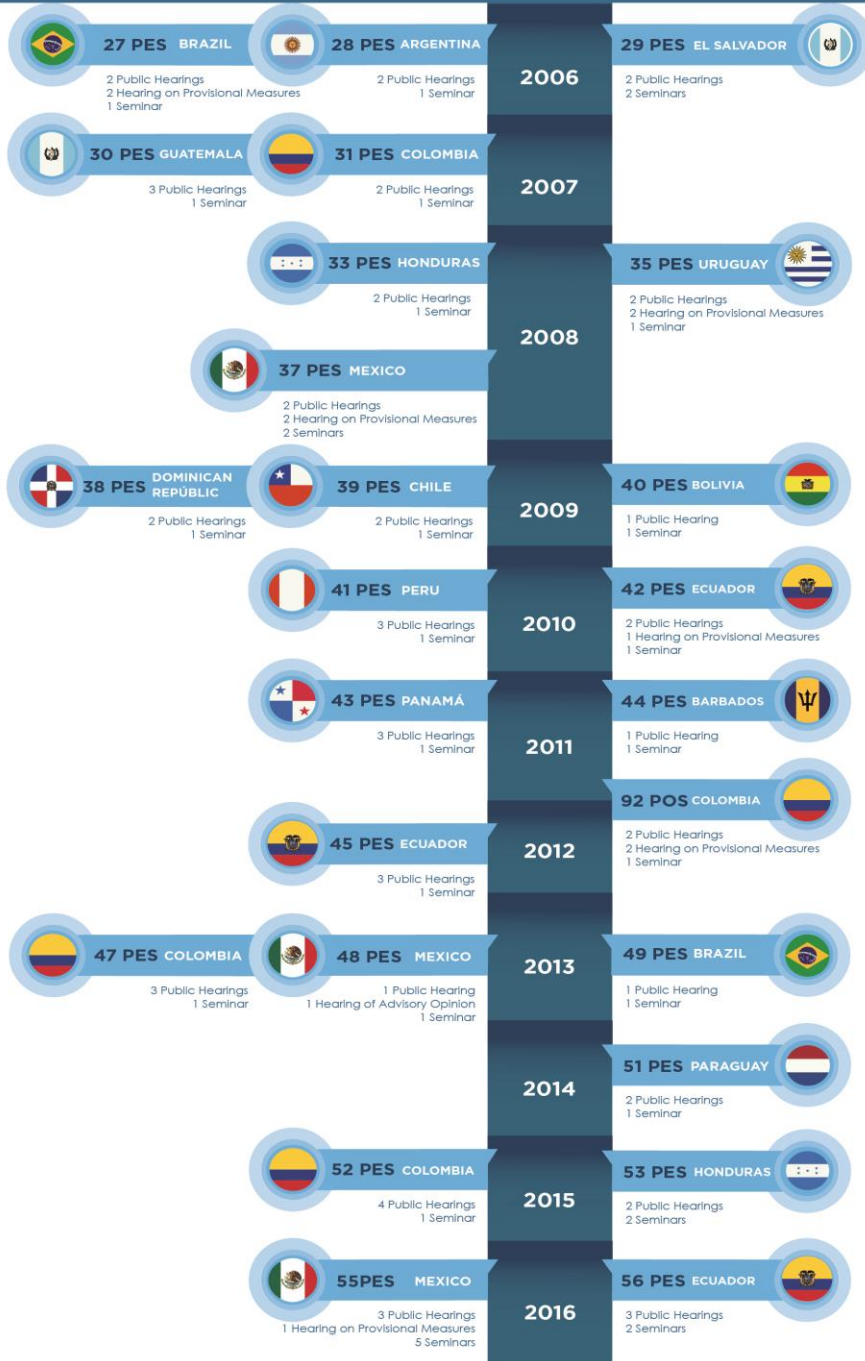


C. The sessions of the Inter-American Court away from its seat

Starting in 2005, the Inter-American Court has held special sessions away from its seat in San José Costa Rica. In order to hold such sessions, the Court has travelled to Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru and Uruguay. This initiative enables the Court to combine two objectives: on the one hand, to increase its judicial activities and, on the other, to disseminate the important work of the Inter-American Court in particular, and the inter-American system for the protection of human right in general. During 2016, the Court held two special sessions away from its seat: one in Mexico City, Mexico, from August 22 to September 2, and the other in Quito, Ecuador, from October 10 to 14.

THE SPECIAL SESSIONS OF THE INTER-AMERICAN COURT FROM ITS SEAT

From 2006 to 2016



IV. Contentious function

A. Cases submitted to the Court

In the course of 2016 sixteen new contentious cases were submitted to the Court's consideration:

Case of Gómez Murillo *et al.* v. Costa Rica

On January 18, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed violation of the rights to personal integrity and personal liberty, to privacy and family life, to found a family, and to equality and non-discrimination of Daniel Gerardo Gómez Murillo, Aída Marcela Garita Sánchez, Roberto Pérez Gutiérrez, Silvia María Sosa Ulate, Luis Miguel Cruz Comparaz, Raquel Sanvicente Rojas, Randall Alberto Torres Quirós, Geanina Isela Marín Rankin, Carlos Edgardo López Vega, Albania Elizondo Rodríguez, Miguel Acuña Cartín and Patricia Núñez Marín. These presumed violations of the rights of the above-mentioned couples took place as a result of the general prohibition to perform *in vitro* fertilization; a prohibition in force in Costa Rica since 2000, following a ruling of the Constitutional Chamber of that country's Supreme Court of Justice.

Case of Ramírez Escobar *et al.* v. Guatemala

On February 12, 2016, the Inter-American Commission submitted this case to the Court. It relates to a series of violations of the American Convention on Human Rights that supposedly occurred during the procedure of the international adoption by means of a notarial procedure of the children, Osmín Ricardo Tobar Ramírez and J.R., aged seven and two, respectively, in June 1998 when they were adopted. This followed their institutionalization as of January 9, 1997, and the subsequent declaration that they had supposedly been abandoned. It was argued that both the initial decision to institutionalize them and the judicial declaration of abandonment failed to comply with the basic substantive and procedural obligations that must be taken into account in accordance with the American Convention.

Case of San Miguel Sosa *et al.* v. Venezuela

On March 8, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed arbitrary dismissal of Rocío San Miguel Sosa, Magally Chang Girón and Thais Coromoto Peña from their respective public posts in the National Borders Council on March 12, 2004, supposedly for having signed the call for a recall referendum to revoke the presidential mandate of the President at the time, Hugo Chávez Frías. It was argued that this political process had taken place in a context of significant polarization in which the then President of the Republic and other senior State officials had issued statements that allegedly revealed that this case involved pressure to dissuade people from signing, threats of reprisals, and even unfounded accusations that those who signed were terrorists. The context of the signatures and the dismissals included the elaboration and publication of the so-called "Tascón list," which included the persons who had signed the call for a recall referendum, and which the President of the Republic himself had commissioned a member of Congress to prepare in order to "give a face to" what was called a supposed "mega-fraud." It was argued that the termination of the contracts of the three presumed victims had constituted an abuse of power, in which the existence of a margin of discretion in the contracts had been used to provide a semblance of legality to the supposed true reason, which was allegedly to punish the presumed victims for expressing their political opinion by signing the call for a recall referendum. This presumed implicit sanction allegedly constituted a violation of political rights, discrimination based on political opinion, and indirect restriction of freedom of expression. Lastly, it was argued that neither the remedy of *amparo* nor the criminal investigation, including the appeal against the dismissal of the case, had constituted effective remedies to examine a supposed abuse of power carried out by covert discrimination.

Case of the Xucurú Indigenous People and its members v. Brazil

On March 16, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed violation of the right to collective property of the Xucurú indigenous people as a result of: (i) the alleged delay of more than 16 years, between 1989 and 2005, in the administrative process of recognition, demarcation, delimitation, and titling of their ancestral lands and territories, and (ii) the alleged delay in the full

regularization of these lands and territories, so that these indigenous people could peacefully exercise this right. The case also relates to the presumed violation of the rights to judicial guarantees and judicial protection, as a result of the alleged failure to comply with a reasonable time in the respective administrative process, as well as the supposed delay in deciding the civil actions filed by non-indigenous persons with regard to some of the ancestral lands and territories of the Xucurú indigenous people.

Case of Isaza Uribe v. Colombia

On April 3, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed enforced disappearance of Víctor Manuel Isaza Uribe since November 19, 1987, while detained in the prison of Puerto Nare, Antioquia. Mr. Isaza Uribe was supposedly a member of the United Workers Union of the Construction Materials Industry (SUTIMAC) in Puerto Nare, as well as a supposed supporter of the Patriotic Union political party. It was argued that the State had merely validated the official version of an escape, without investigating the facts adequately and thoroughly, taking into account all the evidence that pointed to the hypothesis of enforced disappearance.

Case of Villamizar Durán v. Colombia

On April 14, 2016, the Inter-American Commission submitted this case to the Court. It relates to the alleged extrajudicial executions of Gustavo Giraldo Villamizar Duran on August 11, 1996; Elio Gelves Carrillo on May 28, 1997; Carlos Arturo Uva Velandia on June 21, 1992; and Wilfredo Quiñónez Bárcenas, José Gregorio Romero Reyes and Albeiro Ramírez Jorge on September 4, 1995. It is argued that all these deaths occurred at the hands of the State's security agents, and that they took place in the context known as "false positives." This consisted in alleged extrajudicial executions that occurred during the armed conflict, with a *modus operandi* characterized by the death during operations of civilians, who were subsequently presented to the public as members of unlawful armed groups killed in combat, using different means to falsify the scene of the crime and the time, place and manner in which the events occurred. In addition, to the arbitrary deprivation of the right to life, in the case of Gustavo Giraldo Villamizar Duran and of Elio Gelves Carrillo, a violation of the right to honor

and dignity was also alleged because they were presented as members of an unlawful armed group. Also, in the case of Elio Gelves Carrillo, Carlos Arturo Uva Velandia, Wilfredo Quiñónez Bárcenas, José Gregorio Romero Reyes and Albeiro Ramírez Jorge, it was argued that, because their deaths were allegedly preceded by deprivation of their liberty during which they were able to foresee their dire fate, their right to personal integrity and liberty had also been violated.

Case of Vladimir Herzog *et al.* v. Brazil

On April 22, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed international responsibility of the State of Brazil for the supposed situation of impunity of the events related to the arbitrary detention, torture, and subsequent death of the journalist, Vladimir Herzog on October 28, 1975, during the military dictatorship in that country.

Case of Omeara Carrascal *et al.* v. Colombia

On May 21, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed series of gross human rights violations committed against three members of a family. Specifically, the presumed attack suffered by Noel Emiro Omeara Carrascal on January 28, 1994, and his subsequent death; the presumed disappearance and execution of Manuel Guillermo Omeara Miraval, son of the above, as of October 27, 1994; and the presumed attack on and subsequent death of Héctor Álvarez Sánchez, the latter's father-in-law on October 21, 1994. The Commission affirmed that the facts of the case occurred in an alleged context of acquiescence, and coordination between members of the security forces and an unlawful armed group. It also alleged that the failure to establish an adequate link between each of the investigations and proceedings involving the presumed victims in this case could have obstructed the elucidation of the facts and the identification of those responsible. It also indicated that, despite the evidence of the responsibility of State agents and members of paramilitary groups, the State had failed to prove that it had carried out a serious, timely and thorough investigation of such evidence. It argued that the delays incurred by the State had meant that some of the presumed perpetrators had already died and that, even though more than 21 years had passed since the events took

place, the truth about the reasons and circumstances in which the violent acts were ordered and, if applicable, coordinated with State agents, had not been determined.

Case of V.R.P. and V.P.C. v. Nicaragua

On August 25, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed rape suffered by the girl child V.R.P., who, at the time of the alleged facts, was nine years of age and who stated that her father was the person responsible for this act. It is alleged that the State of Nicaragua was internationally responsible for failing to comply with the obligation to ensure the right to personal integrity, dignity, privacy and autonomy, equality and non-discrimination, and the special protection due to her as a child; particularly, owing to the failure to comply with the obligation to investigate with due diligence, within a reasonable time, and from a gender-based perspective, and the enhanced State obligations resulting from the presumed victim's condition as a child. The Commission also affirmed that V.R.P. had been gravely re-victimized with a severe impact on her mental integrity and on that of her mother and siblings.

Case of Poblete Vilches and family members v. Chile

On August 26, 2016, the Inter-American Commission submitted this case to the Court. It relates to a series of alleged human rights violations committed against Vinicio Antonio Poblete Vilches who died, presumably following two hospitalizations in a public hospital between January 17 and February 7, 2001, during which it is alleged that the medical staff committed supposed acts and omissions against him and against the members of his family. In addition, it was argued that the decision to discharge Mr. Poblete Vilches whose health was precarious, the way in which this was carried out, and the failure to provide the intensive treatment could have had an impact on the rapid deterioration in his health and his subsequent death. Lastly, it was alleged that the investigations at the domestic level were not carried out with due diligence or within a reasonable time.

Case of Selvas Gómez *et al.* v. Mexico

On September 17, 2016, the Inter-American Commission submitted this case to the Court. It relates to a series of alleged violations of the American Convention on Human Rights, the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women presumably committed against Mariana Selvas Gómez, Georgina Edith Rosales Gutiérrez, María Patricia Romero Hernández, Norma Aidé Jiménez Osorio, Claudia Hernández Martínez, Bárbara Italia Méndez Moreno, Ana María Velasco Rodríguez, Yolanda Muñoz Diosdada, Cristina Sánchez Hernández, Patricia Torres Linares and Suhelen Gabriela Cuevas Jaramillo in the context of the presumed arrests and transfers carried out during police operations in the municipalities of Texcoco and San Salvador Atenco on May 3 and 4, 2006, respectively, in the course of conflicts and protests by flower growers and other groups.

It is argued that these eleven women were illegally and arbitrarily detained and that, in addition, they suffered egregious acts of physical and mental violence, including different forms of violence, presumably committed by State agents.

Case of Coc Max *et al.* (Massacre of Xaman) v. Guatemala

On September 21, 2016, the Inter-American Commission submitted this case to the Court. It relates to the alleged massacre of eleven individuals perpetrated by members of the Guatemalan Armed Forces on October 5, 1995. These persons included three children, and they were members of the q'eqchi', mam, q'anjob'al and ixil and k'iche indigenous peoples who occupied the Xaman property after they had sought refuge in Mexico as a result of the internal armed conflict. During these events, it is alleged that 29 persons were wounded, and that three of them subsequently died as a result of their injuries. Regarding the investigations that were made, the Commission argued that, while the case was being heard by the military criminal jurisdiction, the State had failed to comply with its obligation to carry out an independent and impartial investigation. Even though the authorities convicted 14 members of the Armed Forces, it is argued that errors and irregularities occurred throughout the proceedings and that

these constituted violations of the obligation to investigate with due diligence and within a reasonable time. The Commission also argued that the State had failed to comply with its obligation to remove the obstacles resulting from the harassment and the threats against those intervening in the proceedings. Lastly, it argued that the facts constituted an expression of racial discrimination against the Mayan people during the armed conflict in Guatemala.

Case of *López Soto et al. v. Venezuela*

On November 2, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed international responsibility of the State of Venezuela for the presumed serious violations of the rights to personal integrity, personal liberty, privacy, dignity and autonomy, and to live without violence or discrimination suffered by Linda Loaiza López Soto, who was 19 years of age at the time, between March 27 and July 19, 2001. It is alleged that she was deprived of liberty against her will and had been the victim of gross acts of violence for almost four months, supposedly including mutilations, severe physical injuries, and psychological violence committed with great cruelty, as well as repeated forms of sexual abuse and rape, all of which had had a deep and irreversible impact on her life. The Commission argued that this violence was based on the presumed victim's condition as a woman and, therefore, alleged that it constituted gender-based violence.

It is argued that the Venezuelan State was, or should have been, aware of the situation of real and imminent danger in which this young woman found herself, in view of the repeated attempts of her sister to file the report of her disappearance and that, despite this, it had failed to take any measure to protect her from this danger and to avoid its materialization. In addition, it is alleged that the State had failed to comply with its obligation to investigate within a reasonable time and that the presumed victim did not have access to justice in equal conditions.

Case of Terrones Silva *et al.* v. Peru

On November 10, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed enforced disappearances of Wilfreda Terrones Silva (since August 25, 1992), Teresa Díaz Aparicio (since August 19, 1992), Santiago Antezana Cueto (since May 7, 1984), Néstor Rojas Medina (since January 26, 1991) and Cory Clodolia Tenicela Tello (since October 2, 1992). It is alleged that the facts took place in the context of a presumed systematic and generalized practice of enforced disappearance during the Peruvian State's fight against terrorism. To date, there is no information on the whereabouts or fate of any of the victims.

Case of Alvarado Espinoza v. Mexico

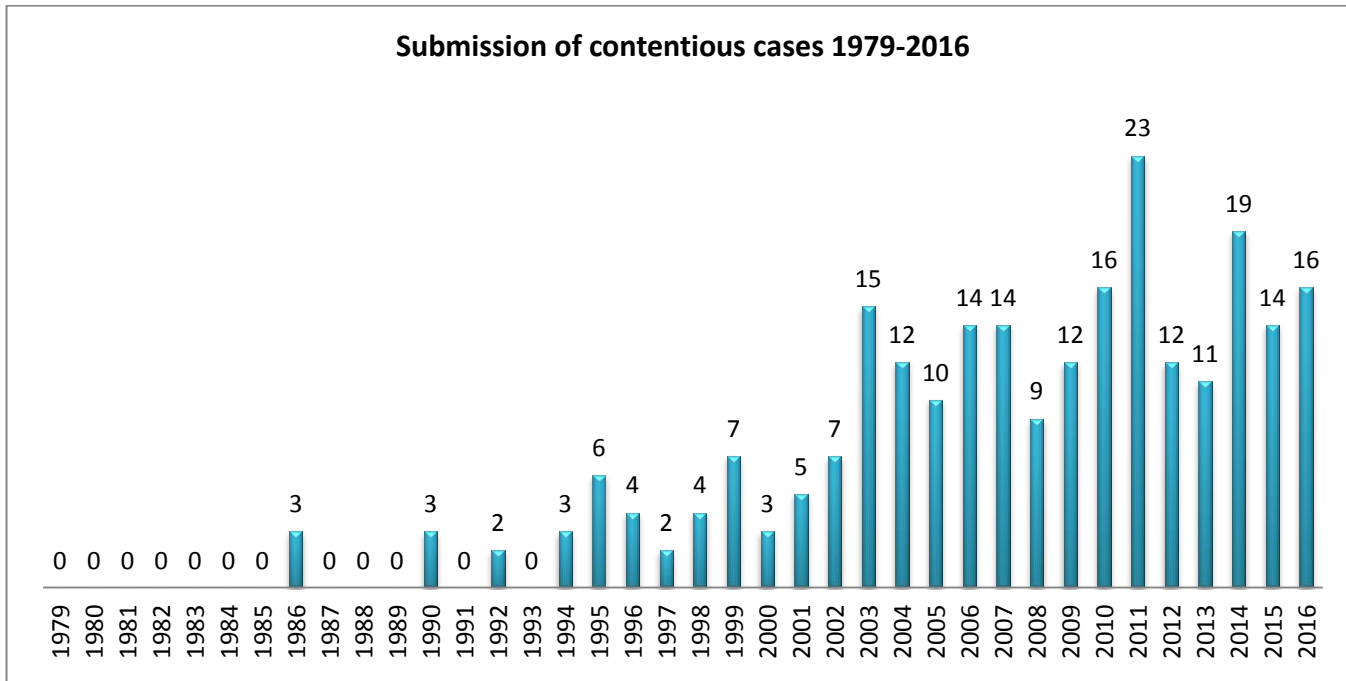
On November 10, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed enforced disappearance of Nitza Paola Alvarado Espinoza, José Ángel Alvarado Herrera and Rocío Irene Alvarado Reyes by State agents in the *Ejido Benito Juárez*, state of Chihuahua, Mexico, starting on December 29, 2009. To date, there is no information on the whereabouts or fate of three of those who were disappeared.

Case of Cuscul *et al.* v. Guatemala

On December 2, 2016, the Inter-American Commission submitted this case to the Court. It relates to the presumed absence of State medical care during 2006 and 2007 for 49 persons with HIV/AIDS living in poverty. It is argued that the death of eight of the presumed victims resulted from opportunistic diseases, or within a time frame when they were not receiving the care that they required from the State, or following deficient treatment. It is also argued that the treatment provided after 2007 did not comply with basic standards to be considered integral and adequate and that, therefore, the alleged deficiencies had violated the rights to health, life and personal integrity of the surviving presumed victims. Lastly, the State had not provided effective judicial protection to the surviving presumed victims.

CASES SUBMITTED TO THE COURT IN 2016





As can be seen from this chart, the Inter-American Commission submitted sixteen cases in 2016.

B. Hearings

All the hearings were transmitted live on the Court's website, and the recordings can be found at the following link: <https://vimeo.com/corteidh>



During 2016 sixteen public hearings were held on contentious cases. During these hearings, the Court received the oral statements of 22 presumed victims, 11 witnesses and 33 expert witnesses, which represents a total of 66 statements. Details of the oral statements received in each hearing appear below:

PUBLIC HEARINGS HELD BY THE COURT

January – December 2016

Session	Case	Presumed victims	Witnesses proposed by		Experts proposed by			Link to call to the hearing
			Reps.	State	Reps.	State	IACHR	
113 RS	Flor Freire v. Ecuador	1			1	1	1	Here
113 RS	Hacienda Brasil Verde Workers v. Brazil ¹	5	1	5	2 ²	2	1	Here
113 RS	Zegarra Marín v. Peru	1			1	1		Here
113 RS	Tenorio Roca v. Peru	1		1				Here
113 RS	Herrera Espinoza v. Ecuador	1					1	Here
114 RS	Pollo Rivera v. Peru	1				1	1	Here
114 RS	Members of the village of Chichupac and neighboring communities of the Municipality of Rabinal v. Guatemala	2		1	1	1	1	Here
114 RS	I.V v. Bolivia	1		1	2 ³	1		Here
54 SS	Vereda La Esperanza v. Colombia	1		1	1	1	1	Here
54 SS	Andrade Salmón v. Bolivia	1		1			1	Here
55 SS	Vásquez Durand et al. v. Ecuador	1				1	1	Here
55 SS	Gutiérrez Hernández v. Guatemala	1					1	Here
55 SS	Valencia Hinojosa et al. v. Ecuador	1			1			Here
55 SS	Acosta et al. v. Nicaragua	1			1		1	Here
56 SS	Dismissed Employees of	1			1			Here

56 SS	Petroperú et al. v. Peru					
	Genoveva et al. (Favela Nova Brasília) v. Brazil	2		1	1	1 Here

C. Evidentiary procedure in the case of the Workers of Hacienda Brasil Verde v. Brazil

Pursuant to Article 58 of its Rules of Procedure, the Court may request evidentiary procedures “at any stage of the proceedings” when processing a contentious case. During 2016, the Court used this authority to carry out a judicial procedure in the territory of the Brazilian State while processing the case of the Workers of Hacienda Brasil Verde v. Brazil.

On June 6 and 7, a delegation from the Court composed of the acting President, Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Eugenio Raúl Zaffaroni, Judge Patricio Pazmiño, the Secretary Pablo Saavedra, and a Secretariat lawyer, together with representatives of the presumed victims, the State and the Inter-American Commission carried out an on-site procedure in Brasilia, Brazil. The delegation held a hearing in order to received testimony from: (i) a group of presumed victims in the case, and (ii) a group of officials from State institutions responsible for combatting slavery. Accordingly, the Court heard the statements ten deponents, including five presumed victims. The judicial procedure was incorporated into the case file being processed before the Court in this case.

The video of this procedure can be found [here](#).

D. Judgments

In the course of 2016, the Court delivered twenty-one judgments, divided into fourteen judgments on preliminary objections,⁵⁶ merits and reparations and costs, and seven interpretation judgments.

All the judgments can be found on the Court's website [here](#).

1. Judgments in contentious cases

Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of February 26, 2016. Series C No. 310

Summary: This case was submitted by the Inter-American Commission on October 21, 2014, and relates to the international responsibility of Colombia for excluding Mr. Duque from the possibility of obtaining a "survivor's pension" following the death of his partner, based on the fact that the latter was his same-sex partner.

Ruling: The Court declared that Colombia was responsible for violating the right to equality and non-discrimination of Ángel Alberto Duque. In addition, the Court decided that there was insufficient evidence to determine a violation of the obligation to adopt domestic legal provisions, or to decide that there was no appropriate and effective remedy to request the payment of the survivor's pension in the case of same-sex couples. Lastly, the Court considered that the State was not responsible for the alleged violation of judicial guarantees and the rights to life and personal integrity of Ángel Alberto Duque.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

⁵⁶ The judgment delivered on October 21, 2016, in the case of Pollo Rivera et al. v. Peru corresponds only to the merits, reparations and costs of the case.

Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312

Summary: This case was submitted by the Commission on August 19, 2014, and relates to the violation of the human rights of María Inés Chinchilla Sandoval as a result of numerous acts and omissions associated with the progressive worsening of her diabetes, which culminated in her death while deprived of liberty serving a criminal conviction.

Ruling: The Court declared that the Guatemalan State was responsible for failing to comply with its international obligation to ensure the rights to personal integrity and life of María Inés Chinchilla Sandoval because the State had not kept a record of her health and treatment following her entry into the detention center. Moreover, there was no evidence that she had been provided with the appropriate food and medicines, or that she had received medical supervision to treat her illnesses and her disability. The Court also considered that the adaptations made in Ms. Chinchilla Sandoval's cell were insufficient and that the prison did not have adequate infrastructure. Consequently, there had been a violation of her right to physical and mental integrity, as well as the prohibition of discrimination. In addition, the Court concluded that the State was responsible for violating the rights to judicial guarantees and judicial protection because the judge overseeing the execution of judgment had not ruled on the various general and specific impediments relating to Ms. Chinchilla's health.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Maldonado Ordoñez v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311

Summary: This case was submitted by the Commission on December 3, 2014, and relates to an administrative procedure that led to the dismissal of Olga Yolanda Maldonado Ordoñez, who was an employee of the Guatemalan Ombudsman's Office.

Ruling: The Court declared a violation of the guarantee to receive prior and detailed information regarding the disciplinary procedure that was instituted and of the right of defense, because the victim was not informed of the reasons for her dismissal. The Court also declared that the obligation to provide justification had not been complied with and the principle of legality had been violated, because there were no reasonable and duly justified grounds for dismissing Olga Yolanda Maldonado Ordoñez, and the conduct that presumably resulted in her dismissal was not defined in the Staff Rules or the Guatemalan Labor Code. Lastly, the Court determined that Guatemala's domestic laws were confusing and contradictory as regards the ways to appeal against the decision to dismiss Ms. Maldonado Ordoñez, and this constituted a violation of the right to a simple and effective remedy and the obligation to adopt domestic legal provisions to implement the rights contained in the American Convention.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Tenorio Roca *et al.* v. Peru. Preliminary objections, merits, reparations and costs. Judgment of June 22, 2016. Series C No. 314

Summary: The case was submitted by the Commission on September 1, 2014, and relates to the detention of Rigoberto Tenorio Roca in 1984, during which he was tortured and taken to a naval barracks, following which his whereabouts are unknown. These events took place in a context of systematic human rights violations and of enforced disappearances perpetrated by the security forces in the province of Huanta in the context of the Peruvian internal armed conflict.

Ruling: The Court found the Peruvian State responsible for the enforced disappearance of Rigoberto Tenorio Roca and for the resulting violation of his rights to personal integrity and life. In view of the fact that it did not carry out diligent and effective investigations to discover the victim's whereabouts, establish what happened, and identify and punish those responsible, the State violated the rights to judicial guarantees and judicial protection. The Court also declared that the State had failed to comply with its obligation to adapt its domestic law to the Convention while the amnesty laws were in force, and because the Peruvian Criminal Code had not been amended to include a definition of enforced disappearance in keeping with international

standards. Lastly, the Court considered that the State had violated the right to personal integrity of the members of Rigoberto Tenorio Roca's family.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315

Summary: The case was submitted by the Commission on December 11, 2014. It relates to the discrimination suffered by Homero Flor Freire as a result of decisions that resulted in his discharge from the Ecuadorian Army based on a disciplinary regime that punished sexual acts between persons of the same sex with dismissal from the Army.

Ruling: The Court found that Ecuador was responsible for the violation of the right to equality before the law and the prohibition of discrimination, because the Military Discipline Rules defined different punishments for heterosexual and homosexual sexual acts, which were more severe in the case of the latter. In addition, as a result of the impact of the disciplinary procedure, the Court found that the State was responsible for violating the right to the protection of honor and dignity. It also concluded that the State had violated the victim's judicial guarantees because it had not provided sufficient and objective guarantees of the impartiality of the judge who dismissed Homero Flor Freire. Nevertheless, the Court did not find the State responsible for violating the obligation to provide justification, or for violating the right to an effective remedy.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Herrera Espinoza *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of September 1, 2016. Series C No. 316

Summary: The case was submitted by the Commission on November 21, 2014. It relates to unlawful home invasion and the arrest of twelve persons in the context of a drug-related police investigation. These persons included Jorge Eliécer Herrera Espinoza, Eusebio Domingo Revelles, Emmanuel Cano and Luis Alfonso Jaramillo González, who were tortured in order to make them admit that they had committed criminal acts.

Ruling: The Court declared that the State was internationally responsible for violating the right to personal integrity of the victims. In addition, the Court concluded that the right to personal liberty had been violated because the victims had been detained unlawfully, sanctioned arbitrarily with pre-trial detention, and had not been brought before a judge immediately in order to exercise judicial oversight. In addition, the State had violated the right to judicial guarantees of one victim, because no lawyer was present when his statement was taken, he had not received prior information on the reasons for his detention or the offense he was accused of, and pre-trial detention constituted a violation of the principle of innocence.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of the Workers of Hacienda Brasil Verde v. Brazil Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318

Summary: The case was submitted by the Commission on March 4, 2015. It relates to slavery and human-trafficking on a Brazilian hacienda and the disappearance of two of the Hacienda workers.

Ruling: The Court declared the violation of Article 6(1) of the American Convention on Human Rights, considering that the Brazilian State was responsible for violating the right not to be subjected to slavery and human-trafficking, which had occurred in the context of a historical situation of structural discrimination based on economic status.

It also concluded that the right to the judicial guarantees of due diligence and a reasonable time had been violated, as well as the right to judicial protection. However, the Court considered that the State was not responsible for violating the rights to juridical personality, life, personal integrity and liberty, and judicial guarantees and protection of the two workers who had disappeared.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Pollo Rivera *et al.* v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319

Summary: The case was submitted by the Commission on February 8, 2015. It relates to the unlawful and arbitrary detention and torture of Dr. Pollo Rivera and his subsequent conviction for performing medical acts for members of the Shining Path terrorist group, in disregard of the fact that a medical act cannot be criminalized.

Ruling: The Court declared the international responsibility of the State of Peru for the violation of the following human rights of Luis Williams Pollo Rivera: to personal liberty, to be tried by a competent, independent and impartial court, to the presumption of innocence, to defend himself, not to testify against himself, and to the public nature of the proceedings, and for violation of the principle of legality. The State was also declared responsible for violating the right to personal integrity of the members of Dr. Pollo Rivera's family.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Yarce *et al.* v. Colombia Preliminary objections, merits, reparations and costs. Judgment of November 22, 2016. Series C No. 325

Summary: The case was submitted by the Commission on June 3, 2014. It relates to the murder of the human rights defender, Ana Teresa Yarce, as well as her detention and that of other female human rights defenders of the Medellin Comuna 13. It also relates to the enforced displacement of the defenders.

Ruling: The Court declared that the State of Colombia was internationally responsible for failing to prevent Ms. Yarce's murder, as well as for the unlawful and arbitrary detention of several female human rights defenders. The State was also convicted of failing to adopt the necessary measures to deal with the situation of displacement of these human rights defenders and for violating judicial guarantees and the right to judicial protection.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Gómez Murillo *et al.* v. Costa Rica. Preliminary objections, merits, reparations and costs. Judgment of November 29, 2016. Series C No. 326

Summary: The case was submitted by the Commission on January 18, 2016. It relates to the general prohibition to perform *in vitro* fertilization in Costa Rica, resulting from a 2000 decision of the Constitutional Chamber of the Supreme Court of Justice that determined that the practice constituted an attack on the life and dignity of the human being.

Ruling: The Court decided to ratify the "Friendly settlement agreement between the State of Costa Rica and the plaintiff," signed by Costa Rica and the representative of the victims.

Find [here](#) the judgment and [here](#) the press release.

Case of Valencia Hinojosa *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of November 29, 2016. Series C No. 327

Summary: The case was submitted by the Commission on February 19, 2015. It relates to the violent death of the police agent, Luis Jorge Valencia Hinojosa, during a police operation, as well as the resulting investigation.

Ruling: The Court declared that the State of Ecuador was internationally responsible for failing to ensure the impartiality and independence of the investigation into the death of the Ecuadorian police agent, Luis Jorge Valencia Hinojosa, which was carried out by a special police jurisdiction. It also concluded that, as a result of impunity in this case, the State was also responsible for failing to ensure the police agent's right to life, and for violating the personal integrity of his wife.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Members of the Village of Chichupac and neighboring communities of the municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328

Summary: The case was submitted by the Commission on August 5, 2014. It relates to the massacre perpetrated by State agents on January 8, 1982, in the indigenous village of Chichupac and neighboring communities of the municipality of Rabinal.

Ruling: The Court declared the international responsibility of Guatemala for violating the right of access to justice of the Maya-Achi, because it had not carried out a diligent investigation into the facts of the case. It also declared that the State was responsible for the enforced disappearance of 22 persons and for failing to take the necessary steps to reverse the effects of the situation of displacement of several individuals.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of I. V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C. No. 229

Summary: The case was submitted by the Commission on April 23, 2015. It relates to a tubal ligation operation to which Ms. I.V. was subjected without her consent.

Ruling: The Court declared that Bolivia was internationally responsible for the unauthorized sterilization to which the victim in this case, Ms. I.V., was subjected, and for the procedural obstacles in access to justice.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330

Summary: The case was submitted by the Commission on January 8, 2015. It relates to the criminal proceedings against the former mayor of La Paz, Lupe Andrade Salmón.

Ruling: The Court declared that the State of Bolivia was responsible for violating Ms. Andrade's rights to judicial guarantees, to property, and to freedom of movement by maintaining preventive measures without any grounds and by the disproportionate duration of the three criminal trials.

Find [here](#) the judgment, [here](#) the official summary and [here](#) the press release.

2. Interpretation judgments

Case of Wong Ho Wing v. Peru. Interpretation of the judgment on preliminary objection, merits, reparations and costs. Judgment of June 22, 2016. Series C No.313

Summary: On December 14, 2015, the State presented a request for interpretation of the judgment, asking the Court to clarify whether the purpose of the constitutional control related only to the Executive's final decision on the extradition request, or whether it extended to any act related to execution of the extradition that Mr. Wong Ho Wing considered affected his rights.

Ruling: The Court concluded that, in the context of the judicial review of the final decision on the extradition, the State must allow Wong Ho Wing to file, with suspensive effects in all its instances, the relevant remedy against the Executive's decision as to whether or not the extradition was in order.

Find [here](#) the judgment.

Case of *López Lone et al. v. Honduras*. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of September 2, 2016. Series C No. 317

Summary: On February 8, 2016, the representatives submitted to the Court a request for interpretation with regard to the amounts awarded for pecuniary damage in the judgment.

Ruling: The Court rejected as inadmissible the questions raised by the representatives concerning the compensation ordered, because these were based on disagreement with the amounts established and not on doubts about the amounts ordered.

Find [here](#) the judgment.

Case of *Quispialaya Vilcapoma v. Peru*. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 320

Summary: On March 15, 2015, the State of Peru presented two requests for interpretation of judgment to the Court with regard to the classification of the acts that violated Mr. Quispialaya's personal integrity, and the number of votes by which State responsibility had been declared based on the intervention of military justice.

Ruling: On November 21, 2016, the Court delivered an interpretation judgment in which it rejected as inadmissible the requests for interpretation, considering that the first one did not fall within the framework established in Article 67 of the American Convention, and that the second one could not be the object of a request for interpretation because the operative paragraph of the judgment in question had been adopted unanimously and Judge Vio Grossi had appended a concurring opinion in this regard.

Find [here](#) the judgment.

Case of Canales Huapaya *et al.* v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 321

Summary: On December 10, 2015, the representative Mario Canales Huapaya presented a request for interpretation of the judgment with regard to the finding that the victim's right to equality had not been violated and "considerations" on the amount of the compensation and the payment for pecuniary damage. Similarly, on December 16, 2015, the State presented a request for interpretation of the judgment with regard to the fact that, as a result of "arbitrary dismissal," the victims in this case should have received an amount for the pensions that they had not received. The State indicated that this would be contrary to the provisions of the judgment, because the purpose of the case had not been to determine the arbitrary nature of the victims' dismissal.

Ruling: The Court rejected both requests as inadmissible. It considered that the former did not fall within the framework established in Article 67 of the American Convention; moreover, as regards the "considerations" presented by the representative in relation to the measures of reparation, the Court did not refer to them because the corresponding request for interpretation had not been made. In the case of the State's request, it considered that the ruling in question was neither contradictory nor ambiguous and thus did not require clarification or interpretation by the Court.

Find [here](#) the judgment.

Case of Duque v. Colombia. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322

Summary: On July 11, 2016, the State submitted a request for interpretation with regard to the items that could be included as expenses and the period over which such expenses must be assumed by the State, pursuant to the order of the Court that the State must cover additional expenses during the stage of monitoring compliance with the judgment.

Ruling: The Court declared that the question raised by the State referred to a text that was sufficiently clear and precise, because it can be inferred clearly from the judgment that these reimbursements refer to expenses that must necessarily be related to the proceeding of monitoring compliance with the judgment, and that this obligation continues while the case is at that procedural stage.

Find [here](#) the judgment.

Case of Galindo Cárdenas *et al.* v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 323

Summary: On March 15, 2016, the representative of the victims submitted to the Court a request for interpretation of four aspects of the judgment, namely: the annulment of the decisions of November 4 and 9, 1994; the scope of the investigation into the alleged “psychological torture”; the rehabilitation measures, and the compensation for pecuniary and non-pecuniary damage.

Ruling: The Court rejected as inadmissible the requests for interpretation with regard to the rehabilitation measures and the compensation for pecuniary and non-pecuniary damage included in the judgment. Regarding the annulment of the decisions of November 4 and 9, 1994, the Court clarified that the measure relating to annulling all the legal effects of the acts included these decisions, considered to be legal effects of the acts, and in keeping with the object and purpose of this measure of reparation in favor of Mr. Galindo. Furthermore, regarding the scope of the investigation into the alleged “psychological torture,” the Court considered that it corresponded to the State, under its obligation to investigate, to determine the specific legal definition of this act.

Find [here](#) the judgment.

Case of the Santa Bárbara Campesino Community v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 324

Summary: On February 15, 2016, the State submitted to the Court a request for interpretation in relation to the measure of reparation concerning the investigation into the violations declared in the judgment

Ruling: The Court rejected the State's request as inadmissible, considering that, since the offenses to be cited would depend on the specific acts in each particular case being examined, the investigation and eventual punishment of those responsible would be examined under the proceeding of monitoring compliance of the judgment.

Find [here](#) the judgment.

E. Average time required to process cases

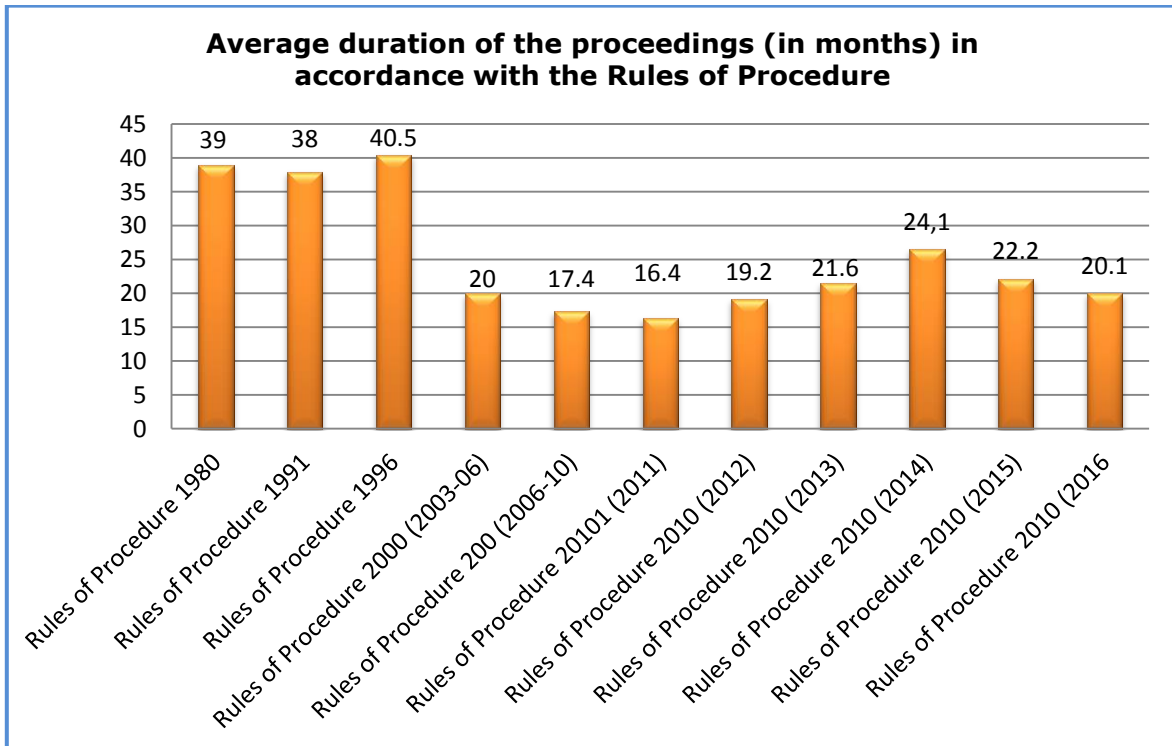
Each year the Court makes a great effort to decide the cases before it promptly. The principle of a reasonable time established in the American Convention and the Court's consistent case law is applicable not only to the domestic proceedings in each State Party, but also to the international organs or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

In 2016, the average time required to process cases before the Court was approximately 20 months.

AVERAGE TIME REQUIRED TO PROCESS CASES

Case	Submission of the case by the IACHR	Judgment delivered by the Court	Months (approx)
Yarce et al. v. Colombia	3/6/14	22/11/16	29
Members of the village of Chichupac and neighboring communities of the Municipality of Rabinal v. Guatemala	5/8/14	30/11/16	27
Chinchilla Sandoval v. Guatemala	19/8/14	29/2/16	18
Tenorio Roca et al. v. Peru	1/9/14	22/6/16	21
Duque v. Colombia	21/10/14	26/2/16	16
Herrera Espinoza et al. v. Ecuador	21/11/14	1/9/16	22
Maldonado Ordoñez v. Guatemala	3/12/14	3/5/16	17

Flor Freire v. Ecuador	11/12/14	31/8/16	20
Andrade Salmón v. Bolivia	8/1/15	1/12/16	23
Pollo Rivera et al. v. Peru	8/2/15	21/10/16	20
Valencia Hinojosa et al. v. Ecuador	19/2/15	29/11/16	21
Hacienda Brasil Verde Workers v. Brazil	4/3/15	20/10/16	19
IV v. Bolivia	23 /4/15	30/11/16	19
Gómez Murillo et al. v. Costa Rica	18/1/16	29/11/16	10



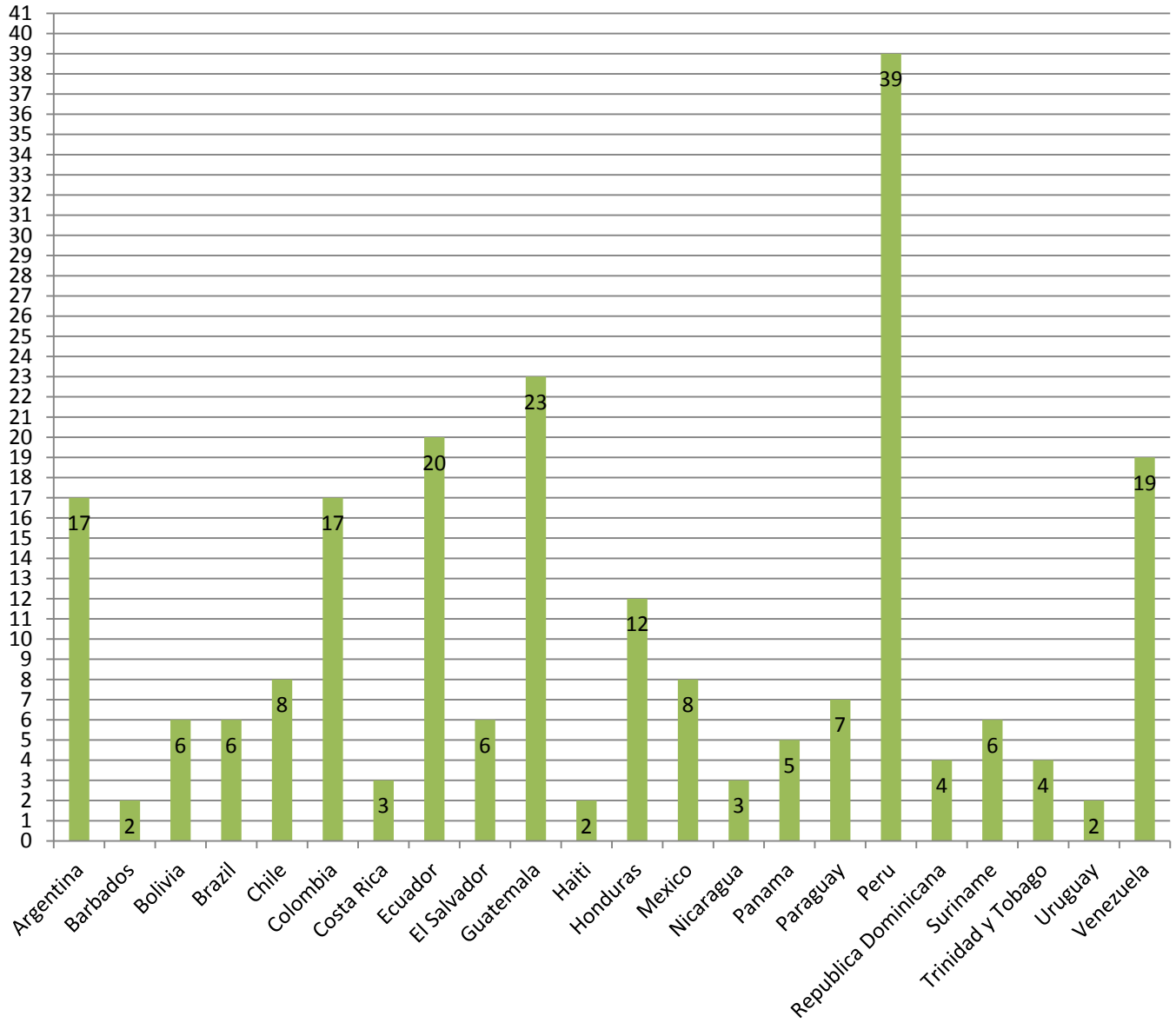
F. Contentious cases being processed

At December 31, 2016, the following twenty-seven cases were pending a decision:

CONTENTIOUS CASES BEING PROCESSED

No.	Name of the Case	State	Date submitted
1	Zegarra Marín	Peru	22/8/2014
2	Manfred Amrhein	Costa Rica	28/11/2014
3	Vereda La Esperanza	Colombia	13/12/2014
4	Ortiz Hernández	Venezuela	13/5/2015
5	Genoveva et al. (Favela Nova Brasília)	Brazil	19/5/2015
6	Vásquez Durand et al.	Ecuador	8/7/2015
7	Gutiérrez Hernández et al.	Guatemala	15/7/2015
8	Acosta et al.	Nicaragua	29/7/2015
9	Dismissed Employees of Petroperú et al.	Peru	13/8/2015
10	Carvajal Carvajal et al.	Colombia	22/10/2015
11	Pacheco León et al.	Honduras	13/11/2015
12	Lagos del Campo	Peru	28/11/2015
13	Ramírez Escobar y otros	Guatemala	12/02/2016
14	San Miguel Sosa et al.	Venezuela	8/3/2016
15	Xucuru Indigenous People and its members	Brazil	16/3/2016
16	Isaza Uribe	Colombia	3/4/2016
17	Villamizar Durán et al.	Colombia	14/4/2016
18	Herzog et al.	Brazil	22/4/2016
19	Omeara Carrascal et al.	Colombia	21/5/2016
20	V.R.P y V.P.C	Nicaragua	25/8/2016
21	Poblete Vilches et al. v.	Chile	27/8/2016
22	Selvas Gómez et al.	Mexico	17/9/2016
23	Coc Max et al. (Masacre de Xamán)	Guatemala	21/9/2016
24	López Soto et al.	Venezuela	2/11/2016
25	Terrones Silva et al.	Peru	10/11/2016
26	Alvarado Espinoza et al.	Mexico	10/11/2016
27	Cuscul et al.	Guatemala	2/12/2016

Total number of cases decided by the Court at the end of 2016.



JUDGEMENTS IN CONTENTIOUS CASES AND INTERPRETATION



- | | | |
|---|--|--|
| <p>1 Case of Andrade Saldaña v. Bolivia. Merits, Reparations and Costs. Judgment of December 1, 2016. Series C No. 330.</p> <p>2 Case of L.V. v. Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 325.</p> <p>3 Case of the Members of the village of Chichupac and neighboring communities of the Municipality of Patzún v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 327.</p> <p>4 Case of Valencia Hinojosa et al. v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 29, 2016. Series C No. 327.</p> <p>5 Case of Gómez Murillo et al. v. Costa Rica. Judgment of November 29, 2016. Series C No. 328.</p> <p>6 Case of Yance et al. v. Colombia. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 22, 2016. Series C No. 325.</p> <p>7 Case of Peasant Community of Santa Bárbara v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2016. Series C No. 324.</p> <p>8 Case of Galindo Cárdenas et al. v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2016. Series C No. 323.</p> | <p>9 Case of Duque v. Colombia. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2016. Series C No. 322.</p> <p>10 Case of Canales Huespeya et al. v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2016. Series C No. 321.</p> <p>11 Case of Guaspilaya Viscopoma v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of November 21, 2016. Series C No. 320.</p> <p>12 Case of Porto Rivera et al. v. Peru. Merits, Reparations and Costs. Judgment of October 21, 2016. Series C No. 319.</p> <p>13 Case of the Hacienda Brasil Venta Workers v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 20, 2016. Series C No. 315.</p> <p>14 Case of López Lone et al. v. Honduras. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of September 2, 2016. Series C No. 317.</p> <p>15 Case of Herrera Espinoza et al. v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 1, 2016. Series C No. 316.</p> <p>16 Case of Flor Freire v. Ecuador. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2016. Series C No. 315.</p> | <p>17 Case of Chinchila Sandoval v. Guatemala. Preliminary Objection, Merits, Reparations and Costs. Judgment of February 29, 2016. Series C No. 312.</p> <p>18 Case of Meltonado Ordóñez v. Guatemala. Preliminary Objection, Merits, Reparations and Costs. Judgment of May 3, 2016. Series C No. 311.</p> <p>19 Case of Duque v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 26, 2016. Series C No. 310.</p> <p>20 Case of Wong Ito Wing v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of June 22, 2016. Series C No. 313.</p> <p>21 Case of Tanorio Roca et al. v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 22, 2016. Series C No. 314.</p> |
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V. Monitoring compliance with judgments

A. Summary of the work of monitoring compliance

Monitoring 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 cases at this stage. Numerous measures of reparation are ordered in each judgment,⁵⁷ and the Court monitors, rigorously and continually, prompt and cumulative compliance with every reparation ordered. When assessing compliance with each reparation, the Court makes a thorough examination of the way in which the different components are executed, and how they are implemented with regard to each victim who benefits from the measures, because there are numerous victims in most cases. Currently, 182 cases are at the stage of monitoring compliance,⁵⁸ and this entails monitoring 901 measures of reparation.

Both the number of reparations ordered, and also their nature and complexity have an impact on the time a case may remain at the stage of monitoring compliance. Before the Court is able to close a case, the State that has been found internationally responsible must have complied with each and every measure of reparation. Thus, it is not unusual that, in some cases at the stage of monitoring compliance with judgment, only one measure of reparation is pending while, in others, numerous reparations remains pending compliance. Consequently, despite the fact that, in many cases, numerous measures have been fulfilled, the Court keeps this stage open until it considers that a judgment has been complied with fully and completely.

In the original judgment the Court requires the State to present an initial report on the implementation of its provisions. It then monitors compliance with the judgment by issuing orders, holding hearings, visiting the States found responsible, and daily monitoring by means of notes issued by the Court's Secretariat. During 2015, the

57 To understand the wide range of measures ordered by the Court, they can be grouped into the following six different forms of reparation: restitution, rehabilitation, satisfaction, guarantees of non-repetition, obligation to investigate, prosecute and punish, as appropriate, and compensation and reimbursement of costs and expenses.

58 The list of 182 cases at the stage of monitoring compliance includes the 15 cases to which, in years prior to 2016, the Court had applied Article 65 of the American Convention in view of non-compliance by the State and in which the situation has not varied.

Secretariat established a unit dedicated exclusively to monitoring compliance with judgments (the Unit for Monitoring Compliance with Judgments), in order to follow up more thoroughly on State compliance with the diverse measures of reparation ordered. Up until then this task had been divided up among the different working groups in the legal area of the Court's Secretariat, which were also responsible for working on contentious cases pending judgment, following up on provisional measures, and developing advisory opinions.

The Court executes this function by monitoring each case individually, and also by the joint monitoring of measures of reparation ordered in judgments in several cases against the same State. The Court employs this strategy when it has ordered the same or similar reparations in the judgments in several cases and when compliance with them faces common factors, challenges or obstacles. The joint hearings and monitoring orders have had a positive impact and repercussions on those involved in implementing the measures. This joint monitoring of compliance mechanism allows the Court to have a greater impact, because it can deal at one and the same time with an issue that is common to several cases involving the same State and approach it collectively, instead of having to monitor the same measure in several cases separately. It also enables the Court to encourage discussions among the different representatives of the victims in each case and results in a more dynamic participation by the State officials responsible for implementing the reparations at the domestic level. In addition, it provides an overview of the advances made and the factors impeding progress in the State concerned, identifies the reparations regarding which a significant dispute exists between the parties, and those to which they can give most attention and make most progress.

In order to provide more information on, greater visibility to, the status of compliance with the reparations ordered in the judgments delivered by the Inter-American Court, since 2015 the information available in both the Court's Annual Report and on its website has gradually been increased. In the case of the website, the home page (www.corteidh.or.cr) includes a link to "Cases at the Monitoring Stage" (http://www.corteidh.or.cr/cf/jurisprudencia2/casos_en_etapa_de_supervision.cfm?lang=en) which includes a chronological table of the judgments delivered, organized by State, together with direct links to the judgments that established the reparations and the orders that have been issued at the stage of monitoring compliance in each case. Of particular interest on this table is the recent addition of links indicating the

reparations that the Court has declared completed and those that remain pending. Also, the home page (www.corteidh.or.cr) includes a link to “Cases filed due to full compliance”

(http://www.corteidh.or.cr/cf/jurisprudencia2/casos_en_etapa_de_supervision.cfm?lang=en).

During 2016, the Inter-American Court held **seven hearings**⁵⁹ on monitoring compliance with judgment, in which it **monitored compliance with the judgments in 10 cases**, in order to receive updated and detailed information from the States concerned on implementation of the measures of reparation ordered, and to receive the observations of the representatives of the victims and the Inter-American Commission. As described below, the Court holds different types of hearings on monitoring compliance with judgment:

1. Monitoring hearings on individual cases: the Court held four hearings to monitor compliance with the judgments in four cases. Each hearing related to one case. Three of these hearings were private and one public, and
2. Joint hearings to monitor several cases against the same State: in which the Court monitors compliance with one or several reparations ordered in judgments in several cases against the same State, when the reparations ordered were the same or similar. The Court held three hearings of this type, in which it monitored compliance with six judgments.

Most monitoring hearings took place at the Court’s seat in San José, Costa Rica. However, in 2016, it held two such hearings away from its seat in order to monitor cases involving Mexico in that State, owing to its greatly appreciated collaboration.

During 2016, the Court issued **35 orders** on monitoring compliance with judgment in which it monitored **compliance with judgment in 38 cases**, in order to: assess the

⁵⁹ The following hearings were held: (1) jointly for the cases of Fernández Ortega et al., and Rosendo Cantú et al., both against Mexico; (ii) jointly for the cases of Raxcacó Reyes, and Fermín Ramírez, both against Guatemala; (iii) case of the Massacres of El Mozote and neighboring places v. El Salvador; (iv) jointly for the cases of the Serrano Cruz Sisters, and Contreras et al., both against El Salvador; (v) case of Radilla Pacheco v. Mexico; (vi) case of Cabrera García and Montiel Flores v. Mexico, and (vii) case of the Kichwa Indigenous People of Sarayaku v. Ecuador.

degree of compliance with the reparations ordered; request detailed information on the measures taken to comply with certain measures of reparation; urge the States to comply and guide them on compliance with the measures of reparation ordered; give instruction for compliance, and clarify aspects on which there was a dispute between the parties regarding the execution and implementation of the reparations, all of this in order to ensure full and effective implementation of its decision. The orders on monitoring compliance of judgment issued by the Court in 2016 had different contents and purposes:

- 1) To monitor compliance in individual cases of all or several reparations ordered in a judgment, including reimbursement of the Victims' Legal Assistance Fund of the Court. The Court issued 30 orders of this nature;
- 2) To jointly monitor compliance with one or several equal or similar reparations ordered in the judgments in several cases involving the same State found responsible. The President of the Court issued one order of this nature, monitoring specific reparations ordered in three different judgments;
- 3) To close cases owing to full compliance with the reparations ordered. The Court ordered the closure of three cases;
- 4) To declare non-compliance by two States with the obligation to report on implementation of the reparations in six cases. The Court issued four orders of this nature, and
- 5) To require the Secretary of the Court to take steps to coordinate with a specific State the possibility of visiting that country in order to obtain relevant and precise information to monitor compliance with the pending measures of reparation in three cases of indigenous communities.

•

In addition to monitoring by means of the above-mentioned orders and hearings, during 2016, the Commission and the parties were asked to provide information or observations by notes sent by the Court's Secretariat, on the instructions of the Court or its President, in **129** of the 182⁶⁰ cases at the stage of monitoring compliance with judgment.

60 The list of 182 cases at the stage of monitoring compliance with judgment includes those in which the one-year time frame established in the judgment for the State to present its first report on compliance has not yet expired because, formally, those cases are at this stage and, frequently, the parties present information to the Court before the time frame has expired.

During 2016, the Court **received more than 200 reports** and attachments from the States in 108 of the 182 cases at the stage of monitoring compliance with judgment. This means that in many of these 108 cases, several reports were received during the year. In addition, in the course of the year, the Court received more than 300 briefs with observations from either the victims or their legal representatives, or from the Inter-American Commission in 102 of the 182 cases at the stage of monitoring compliance with judgment.

By implementing the above-mentioned actions (requesting reports in the judgment, orders, hearings, requests for information or observations in notes of the Court's Secretariat, and the respective receipt of reports and observations), in 2016, the Court **monitored compliance in 99% of the cases**; in other words, in 181 of the 182 cases at the stage of monitoring compliance.

During 2016 the above-mentioned mechanism of **joint monitoring** continued with regard to the following measures of reparation:

- i. The obligation to investigate, prosecute and punish, as appropriate, those responsible for the human rights violations in twelve (12) cases against Guatemala. In October 2016, the State presented the report that the Court had requested in a monitoring order issued in November 2015. This report was forwarded to the representatives of the victims and to the Inter-American Commission in order to receive their observations and continue advancing the monitoring procedure;
- ii. Measures to identify, transfer and grant title to lands of three indigenous communities ordered in three cases against Paraguay. In September 2016, the President of the Court issued an order in which, taking into account the time that had elapsed since the deadlines for complying with the measures had expired without the right to property of these communities having been guaranteed as ordered by the Inter-American Court,⁶¹ he required the Court's Secretary to take steps to coordinate with Paraguay the possibility of visiting that country to obtain relevant and precise information in order to monitor

61 The President indicated that it appeared that no substantial progress had been made to comply with the reparations ordered in the three cases related to the identification, transfer and titling of the traditional lands of the communities, with the exception of the titling of the lands located in "25 de febrero" in favor of the Xákmok Kásek community.

compliance with the pending measures of reparation; particularly, those relating to ensuring the right to communal property.

- iii. The provision of medical and psychological treatment to the victims in nine cases against Colombia. In 2016, the President of the Court made several specific requests for information from the State, which presented three reports on the steps taken to comply with the measure of reparation that was being monitored. The representatives of the victims and the Inter-American Commission forwarded observations on the information provided by the State;
- iv. The adaptation of domestic law to international standards and those of the Convention as regards the guarantee of an ordinary judge in relation to the military criminal jurisdiction, and the adoption of the pertinent amendments to provide individuals affected by the intervention of the military jurisdiction with an effective remedy to contest the competence of that jurisdiction, ordered in four cases against Mexico. In 2016, the Court received information on this measure of reparation at two hearings held in Mexico in September for the cases of Radilla Pacheco, and Cabrera García and Montiel Flores;
- v. The adaptation of domestic law concerning protection of the right to life in the context of the obligatory imposition of the death penalty for the crime of murder in two cases against Barbados. In 2016, the President of the Court issued a detailed request for information and the State presented reports on compliance with the measures of reparation being monitored jointly, and
- vi. Guarantees of non-repetition in six cases against Honduras concerning: (i) prison conditions, training for prison officials, and registration of detainees; (ii) protection of human rights defenders, in particular defenders of the environment, and (iii) obligation to investigate, prosecute and punish, as appropriate, the human rights violations that had occurred in these cases. In March 2016, the State presented some additional information to that provided during the hearing held in August 2015. In April 2016, the President of the Court issued an extensive and detailed request for information to the State, based on the information presented by Honduras and the observations of the representatives of the victims and the Inter-American Commission during the hearing. The State submitted the report that had been requested and the representatives of the victims forwarded their observations.

B. Hearings on monitoring compliance held in 2016

The Inter-American Court held **seven hearings** on monitoring compliance with judgment in 2016, **during which it monitored compliance with judgment in 10 cases**. Of these, six were private and one public. In this regard, it should be highlighted that the Court held hearings on monitoring compliance with judgments away from its seat in Mexico.

1. Hearings on monitoring compliance with judgment in individual cases held at the seat of the Court

a) Case of the Massacres of El Mozote and nearby places v. El Salvador

On May 3, 2016, during the 114th regular session, a hearing was held to monitor the measures of reparation concerning: (i) the “Consolidated list of victims and next of kin of victims of gross human rights violation during the massacre of El Mozote”; (ii) the investigation of the violations declared in the judgment; (iii) ensuring that the General Amnesty Law to consolidate peace did not represent an obstacle to this investigation or that of similar egregious human rights violations; (iv) the exhumation, identification and, when applicable, return of the remains of those executed to their next of kin; (v) the housing programs for the communities affected by the massacres, and (vi) adequate conditions for the return of the displaced victims to their original communities.

b) Case of the Kichwa Indigenous People of Sarayaku v. Ecuador

On December 2, 2016, during the 116th regular session, a public hearing was held on monitoring compliance with judgment in the case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*,⁶² in order to monitor compliance with reparations relating to: (1)

⁶² This hearing was convened by the Inter- American Court on May 3, 2016. However, due to reasons of force majeure, it had to be

neutralization, deactivation and, when appropriate, removal of pentolite buried and on the surface of the territory of the Sarayaku people; (ii) consultation of the Sarayaku people if it was sought to implement any activity or project to extract natural resources from their territory, or any investment or development plan that might harm their territory, and (iii) adoption of legislative, administrative and any other type of measure to implement the right to prior consultation of the indigenous and tribal peoples and communities, and to amend those that impeded the full and free exercise of this right.



This hearing can be found [here](#).

2. Hearings on monitoring compliance with judgment in order to jointly monitor several cases against the same State

a) Joint monitoring of compliance with the judgments in the cases of Fernández Ortega *et al.*, and Rosendo Cantú *et al.*, both against Mexico

The private hearing was held on May 3, 2016, during the 114th regular session. Among other measures of reparation, the Court monitored those relating to: (i) the investigation, in the ordinary criminal jurisdiction, of the rape of the victims perpetrated by military personnel; (ii) action protocols, training programs for officials, and health services that ensure appropriate care for women victims of sexual violence, and the investigation of violations of this type; (iii) raising the population's awareness of the prohibition of violence and discrimination against indigenous women, and (iv) a women's community center in the Mep'aa indigenous community of Barranca Tecoani, and a support center so that the girl children of this community can continue their secondary education.

b) Joint monitoring of compliance with the judgments in the cases of Raxcacó Reyes *et al.*, and Fermín Ramírez, both against Guatemala

The private hearing was held on May 3, 2016, during the 114th regular session. Among other measures of reparation, the Court monitored those relating to: (i) amendment of the part of Article 132 of the Criminal Code (which defines the crime of murder) that establishes the possibility of ordering the death penalty based on the "danger represented by the author"; (ii) amendment of Article 201 of the Criminal Code that defines kidnapping or abduction in order to establish different criminal definitions for the diverse forms of this offense, with different punishments and, while these amendments are being implemented, prohibition to apply the death penalty for this offense, and (iii) adaptation of prison conditions to international human rights standards.

c) Joint monitoring of compliance with the judgments in the cases of the Serrano Cruz Sisters, and Contreras *et al.*, both against El Salvador

The private hearing was held on June 24, 2016, during the 54th special session. Among other measures of reparation, the Court monitored those relating to: (i) the search for the whereabouts of the victims Ernestina and Erlinda Serrano Cruz, Julia Inés Contreras, Ana Julia Mejía Ramírez and Carmelina Mejía Ramírez, who disappeared during the internal armed conflict when they were children, as well as those measures of a general nature to search for children who disappeared in this context; (ii) ensuring access to the information in files and records that were relevant for investigating what happened and determining the whereabouts of those who disappeared, and (iii) the obligation to investigate the violations committed against the victims in these two cases.

3. Monitoring hearings held away from the seat of the Court in the territory of the States found responsible

In 2015, the Court commenced the constructive initiative of holding hearings in the territory of the States found responsible and, to this end, obtained cooperation from Panama and Honduras. This type of hearing facilitates greater participation by the victims and also the different State officials and authorities directly responsible for implementing the different reparations ordered in the judgments.

In 2016, the Court held two monitoring hearing in Mexico during its 55th special session in Mexico City, with substantial collaboration from this State.

a) Case of Radilla Pacheco v. Mexico

On September 2, 2016, a private hearing was held in this case during which the Court monitored the measures of reparation relating to: (i) the obligation to investigate the enforced disappearance of Rosendo Radilla Pacheco; (ii) the search for the whereabouts or mortal remains of Rosendo Radilla Pacheco; (iii) the amendment of the article of the Federal Criminal Code that defines the offense of enforced disappearance of persons; (iv) the completion of the amendment of the article of the Code of Military Justice concerning the jurisdiction of the military criminal courts, so that they may only try crimes or misdemeanors (committed by military personnel in active service) that, due to their nature, harm rights inherent to the military, and (v) the provision of free psychological and/or psychiatric treatment to the victims in specialized public health institutions.

b) Case of Cabrera García and Montiel Flores v. Mexico

On September 2, 2016, a hearing was held in this case during which the Court monitored the measures of reparation relating to: (i) the obligation to investigate the alleged acts of torture perpetrated by military personnel against Teodoro Cabrera García and Rodolfo Montiel Flores; (ii) improvement of detention records and detention conditions, and (iii) completing the amendment of the article of the Code of Military Justice concerning the jurisdiction of the military criminal courts, so that they may only try crimes or misdemeanors (committed by military personnel in active service) that, due to their nature, harm rights inherent to the military.

C. Orders on monitoring compliance with judgment issued in 2016

All the orders on monitoring compliance with judgment issued by the Court are available [here](#).

The Court issued 35 orders on monitoring compliance with judgment in which it monitored 38 cases. These orders are described below in the order in which they were issued, classified according to their content and purposes.

1. Individual monitoring of cases (compliance with all or several reparations ordered in the judgment in each case)

INDIVIDUAL MONITORING OF CASES

Compliance with all or several reparations ordered in the respective judgment is evaluated

Name of the case	Link
Case of the Human Rights Defender <i>et al. v. Guatemala</i>. Order of February 23, 2016.	Here
Case of Artavia Murillo <i>et al. ("In vitro fertilization") v. Costa Rica</i>. Order of February 26, 2016.	Here
Case of the Massacres of El Mozote and nearby places <i>v. El Salvador</i>. Order of May 3, 2016.	Here
Case of Véliz Franco <i>et al. v. Guatemala</i>. Order of May 3, 2016.	Here
Case of Wong Ho Wing <i>v. Peru</i>. Order of June 22, 2016.	Here
Case of the Kichwa Indigenous People of Sarayaku <i>v. Ecuador</i>. Order of June 22, 2016.	Here
Case of Baldeón García <i>v. Peru</i>. Order of June 22, 2016.	Here
Case of the 19 Traders <i>v. Colombia</i>. Order of June 23, 2016.	Here
Case of Chaparro Álvarez and Lapo Íñiguez <i>v. Ecuador</i>. Order of June 23, 2016.	Here

Case of Contreras <i>et al.</i> v. El Salvador. Order of September 1, 2016.	Here
Case of the Serrano Cruz Sisters v. El Salvador. Order of September 1, 2016.	Here
Case of Ticona Estrada <i>et al.</i> v. Bolivia. Order of September 1, 2016.	Here
Case of Palamara Iribarne v. Chile. Order of September 1, 2016.	Here
Zambrano Vélez <i>et al.</i> v. Ecuador. Order of September 1, 2016.	Here
Case of García Cruz and Sánchez Silvestre v. Mexico. Order of September 1, 2016.	Here
Case of the Afrodescendant Communities displaced from the Rio Cacarica Basin (Operation Genesis) v. Colombia. Order of October 20, 2016.	Here
Case of the "Five Pensioners" v. Peru. Order of October 20, 2016.	Here
Case of the Supreme Court of Justice (Quintana Coello <i>et al.</i>) v. Ecuador. Order of October 20, 2016.	Here
Case of García and family members v. Guatemala. Order of November 22, 2016.	Here
Case of the Human Rights Defender <i>et al.</i> v. Guatemala. Order of November 22, 2016.	Here
Case of Escué Zapata v. Colombia. Order of November 22, 2016.	Here
Case of Argüelles <i>et al.</i> v. Argentina. Order of November 22, 2016.	Here
Case of Fontevicchia and D'Amico v. Argentina. Order of November 22, 2016.	Here
Case of Tibi v. Ecuador. Order of November 22, 2016.	Here
Case of the Barrios Family v. Venezuela. Victims' Legal Assistance Fund. Order of February 23, 2016.	Here
Case of the Punta Piedra Garífuna Community and its members v. Honduras. Victims' Legal Assistance Fund. Order of September 1, 2016.	Here
Case of the Triunfo de la Cruz Garífuna Community and its members v. Honduras. Victims' Legal Assistance Fund. Order of September 1, 2016.	Here
Case of Duque v. Colombia. Victims' Legal Assistance Fund. Order of the President of the Court of October 7, 2016.	Here

2. Joint monitoring of cases (compliance with one or several reparations ordered in more than one judgment with regard to the same State)

JOINT MONITORING OF CASES

Compliance with one or several reparations ordered in more than one judgment with regard to the same State

Name of the case

Link

Joint order for the cases of the Yakye Axa, Sawhoyamaya, and Xákmok Kásek Indigenous Communities v. Paraguay. Order of the President of September 1, 2016.

[Here](#)

3. Cases closed due to compliance with the judgment

During 2015, full compliance with judgment was declared in three cases: two corresponding to Ecuador and one to Peru.

a) Case of Salvador Chiriboga v. Ecuador

On May 3, 2016, the Court issued an order in which it decided to close and archive this case because Ecuador had complied with each reparation ordered in the judgment delivered on March 3, 2011. The Court took the decision to end monitoring compliance with the reparations ordered in this case after verifying that Ecuador had: (a) paid Mrs. Salvador Chiriboga the amounts established in the judgment on reparations for: (i) fair compensation at the international level, which included the value of the building that had been expropriated and its accessories; (ii) pecuniary damage relating to the interest derived from the fair compensation; (iii) compensation for non-pecuniary damage, and (iv) reimbursement of costs and expenses; (b) returned to Mrs. Salvador Chiriboga the amount established in the judgment on reparations for property taxes, in addition to other taxes, and for the surcharge

unduly charged on an empty lot, as well as the corresponding interest, and (c) published specific parts of the judgment on reparations in the official gazette and the official summary of the judgment in a national newspaper with widespread circulation.

The Order of May 3, 2016, can be found [here](#).

b) Case of the Constitutional Tribunal (Camba Campos) v. Ecuador

On June 23, 2016, the Court issued an order in which it decided to close and archive this case because Ecuador had complied with each reparation ordered in the judgment delivered on August 28, 2013. Ecuador had complied with the reparations relating to: (a) payment to the victims of compensation for the impossibility of reincorporating their functions as members of the Constitutional Tribunal; (b) payment to the victims of compensation for the pecuniary damage (remunerations plus social benefits that they did not receive) and for the non-pecuniary damage resulting from the violations; (c) reimbursement of the costs and expenses of the proceedings before the inter-American system, and (d) publication of the official summary of the judgment in the official gazette and in a national newspaper with widespread circulation, and the complete judgment on the website of the Ecuadorian Judiciary.

The Order of June 23, 2016 can be found [here](#).

c) Case of Castillo Petruzzi *et al.* v. Peru

On September 1, 2016, the Court issued an order in which it decided to close and archive this case because Peru had complied with each reparation ordered in the judgment on merits, reparations and costs delivered on May 30, 1999. The Court verified that Peru had complied with: (a) guaranteeing a new trial with full respect for due process to Jaime Francisco Sebastián Castillo Petruzzi, María Concepción Pincheira Sáez, Lautaro Enrique Mellado Saavedra and Alejandro Luis Astorga Valdez based on the fact that the Inter-American Court had declared that the proceedings instituted against the victims had been invalid because it was incompatible with the American Convention; (b) taking the appropriate measures to amend the norms that were

declared to be in violation of the American Convention, and (c) taking steps that revealed its willingness to make the payment to reimburse costs and expense, which could not be executed due to reasons beyond its control.

The Order of September 1, 2016 can be found [here](#).

4. Non-compliance with reporting obligations

The Court determined that, in six cases, the States were failing to comply with the obligation to report on the measures taken to comply with the judgments, which constitutes non-compliance with the obligations established in Articles 67 and 68(1) of the Convention. It was also concerned about the lack of progress in compliance with the reparations ordered in the respective judgments. The Court asked the States to present the required reports indicating the measures taken to implement the reparations ordered in the judgments.

a) Case of Fleury *et al.* v. Haiti

In an order dated November 22, 2016, the Court declared that Haiti was in serious breach of its reporting obligations, because almost four years had passed since the deadline for presenting a report established in the judgment had expired, and it had failed to respond to the requests made by both the President of the Court, and the Court in an order of November 2015.

The said order can be found [here](#).

b) Joint order in the cases of Chocrón Chocrón, Díaz Peña, and Uzcátegui *et al.* v. Venezuela

In an order dated November 22, 2016, the Court declared that Venezuela was in serious breach of its reporting obligations, because four years and three months had passed in the case of Chocrón Chocrón, three years and fourth months in the case of

Díaz Peña, and three years and one month in the case of Uzcátegui *et al.*, since the expiry of the one-year deadline established in the respective judgments for the State to present reports. The Court indicated that, despite these long delays, and the requests made by the President of the Court, and by the Court in its Order of November 2015, Venezuela had still not provided any information on compliance with the judgments in these three cases.

The said order can be found [here](#).

c) Case of the Landaeta Mejías Brothers *et al.* v. Venezuela

In an order dated November 22, 2016, the Court determined that Venezuela was in breach of its reporting obligations, because approximately one year and one month had passed since the expiry of the one-year time frame established in the judgment for it to forward a report, and it had failed to respond to the October 2015 request by the President of the Court.

The said order can be found [here](#).

d) Case of the Barrios Family v. Venezuela

In an order dated November 22, 2016, the Court declared that Venezuela was in breach of its reporting obligations, because for three years and eleven months following the expiry of the time frame established in the judgment for reporting on compliance, the State had only provided some information on the obligation to investigate, and had failed to report on compliance with the other measures ordered in the judgment.

The said order can be found [here](#).

D. Requests for reports from sources that are not parties to a case (Article 69(2) of the Rules of Procedure)

Starting in 2015, the Court has used the authority established in Article 69(2)⁶³ of its Rules of Procedure to request relevant information on the implementation of reparations from sources that are not parties to a case. This has allowed it to obtain direct information from specific State organs and institutions that, insofar as it is pertinent, allows it assess compliance with the measures ordered. This information differs from that provided by the State as a party to the proceedings at the stage of monitoring compliance. The following are among the most significant requests made:

1. In the joint monitoring of the obligation to investigate in 12 Guatemalan cases, the Court requested information from the **Prosecutor General of the Guatemalan Public Prosecution Service**, and this was assessed in the ordered issued by the Court in 2015.
2. In the case of the *Miguel Castro Castro Prison v. Peru*, in a 2015 order, the Court requested information from the **Special Court for Execution of Supranational Judgments of the Superior Court of Justice of Lima** on the reparations relating to the payment of compensation.
3. In the case of *Artavia Murillo et al. ("In vitro fertilization") v. Costa Rica*, the Costa Rican Ombudsperson was authorized to take part in the public hearing to monitor compliance with the guarantees of non-repetition ordered in this case (with regard to annulling the prohibition to perform IVF, regulating the aspects required in order to implement IVF, and making it available under the national health service). The Court assessed that information in its order of February 26, 2016.
4. In the order it issued on September 1, 2016, in the case of *Palamara Iribarne v. Chile*, the Court assessed information provided by the **Chilean National Human Rights Institute** on compliance with the guarantees of non-repetition in relation to the adaptation of domestic law to international standards with regard to military criminal justice.

⁶³ This article stipulates that: "The Court may require from other sources of information relevant data regarding the case in order to evaluate compliance therewith. To that end, the Tribunal may also request the expert opinions or reports that it considers appropriate.

5. In the orders issued on September 1, 2016, in the cases of the *Serrano Cruz Sisters* and *Contreras et al.*, both against El Salvador, in addition to requesting the State to provide a report, the Court commissioned its President, if necessary, to use the authority established in Article 69(2) of the Court's Rules of Procedure to directly request certain **Salvadoran institutions** to provide relevant information for monitoring compliance with the judgment.
6. In the order issued on November 22, 2016, in the case of *Tibi v. Ecuador*, the Court considered it useful to request a report from a specific department of the **Office of the Prosecutor General of the State of Ecuador** responsible for the preliminary investigation opened in 2005 into the violations perpetrated against the victim in this case.

E. Informal meeting held with State agents or delegations

During 2016, it was found that holding meetings with States in order to provide them with information or to discuss the status of cases at the stage of monitoring compliance with judgment could be very positive. Such meetings were informal and did not have the nature of a monitoring hearing; however, they did have a positive impact on improving communication on matters such as the different reparations that States were called on to implement, deadlines for the submission of reports, and observations presented by the victims' representatives and the Commission. In 2015, a meeting of this type had been organized with regard to the cases against Panama.

1. Meeting with Guatemala's agent

In May 2016 the Court's Secretariat received the State's new agent for the cases against Guatemala, Víctor Hugo Godoy, Chair of the Presidential Commission to coordinate the Executive's human rights policy. The State's agent met with the Court's Secretary and lawyers from the Secretariat's unit for monitoring compliance with judgments, in order to familiarize himself with the 20 cases against Guatemala at the

stage of monitoring compliance with judgment so as to make progress towards complying with the judgments.

2. Meeting with Argentine authorities

In November 2016, a delegation was received from the Ministries of Foreign Affairs and Worship, and of Justice and Human Rights of the Argentine Republic in order to discuss 13 cases at the stage of monitoring compliance with judgment. During the meeting, the Argentine delegation expressed its willingness and interest in identifying better ways of complying satisfactorily with pending reparations ordered in judgments.

The meeting was attended, on behalf of the Court, by Judge Elizabeth Odio Benito, the Secretary Pablo Saavedra Alessandri, and Secretariat lawyers who work in the unit for monitoring compliance with judgments. Meanwhile, the Argentine State was represented by: the Ambassador Extraordinary and Plenipotentiary and Special Representative for Human Rights of the Ministry of Foreign Affairs and Worship, Leandro Despouy; the State's agent in the cases being monitored and Director for International Contentious Human Rights Cases of that Ministry, Javier Salgado; the Adviser on international human rights matters of the Ministry of Justice and Human Rights, Siro de Martini, and the Coordinator of International Legal Affairs of the Secretariat for Human Rights and Cultural Pluralism of the Ministry of Justice and Human Rights, Ramiro Badia.

F. Involvement of national institutions and organs to urge, in the domestic sphere, implementation of reparations

Compliance with the Court's judgment could benefit from the involvement of national institutions and organs that, within their spheres of competence and using their powers to protect, defend and promote human rights, urge the corresponding public authorities to take specific actions that lead to the implementation of the measures of reparation ordered, and compliance with the decisions made in the judgments. This is

particularly important in the case of reparations that constitute guarantees of non-repetition. Such reparations are more complex to implement and benefit both the victims of a case and the community as a whole by promoting structural, legislative and institutional changes that ensure the effective protection of human rights. Depending on the components of the reparations, the active participation of different social agents and organs as well as institutions specialized in the proposal, planning or implementation of such measures is relevant.

In this regard, it is worth noting the work that can be done by the national human rights agencies and Ombudsmen. For example, in relation to compliance with the judgment in the case of *Artavia Murillo et al. ("In vitro fertilization") v. Costa Rica*, The Costa Rican Ombudsperson played an active and very significant role in demanding compliance with the guarantees of non-repetition at the domestic level. For instance, she requested information from the President of the Republic, the Costa Rican Social Security Institute, the Ministry of Health, and the Judiciary, and met with members of the Legislative Assembly.

In order to develop closer ties with this type of institution, in October 2016, the Inter-American Court signed an agreement with the Costa Rican Ombudsperson, and also made arrangements to implement the agreement signed with the Ibero-American Federation of Ombudsmen (FIO). The agreement with the FIO makes significant progress in this area by directly addressing the issue of compliance with the Court's judgments. It includes the commitment to establish a "dialogue and identify possible activities between FIO members and the Inter-American Court with regard to the role of the ombudsman in relation to compliance with the judgments of the Inter-American Court, [...] paying special attention to compliance with the reparations that entail changes in the legislation, practices or structural situation that resulted in the violation of human rights."

In previous years, the Court has also signed agreements with: (i) the National Human Rights Commission of Honduras, which even contains a clause indicating that the Commission "may collaborate in the task of monitoring compliance with the judgments of the Inter-American Court"; (ii) the Peruvian Ombudsman; (iii) the Human Rights Commission of the Federal District of Mexico; (iv) the National Human Rights Commission of Mexico; (v) the State Human Rights Commission of Nuevo León,

Mexico; (vi) the Colombian Ombudsman; (vii) the Ombudsman of the Plurinational State of Bolivia, and (viii) the Ombudsman of the Republic of Panama.

Domestic courts, and particularly constitutional courts, can also play an essential role, by requiring, within their area of competence, compliance with certain reparations ordered by the Inter-American Court. The Court recognized an important example of this in the order on monitoring compliance that it issued in 2016 in the case of *19 Traders v. Colombia*.⁶⁴ The Court assessed positively the ruling issued by the Fifth Review Chamber of the Constitutional Court that, when deciding favorably an action for protection filed by several victims, made an important contribution to satisfactory compliance with the reparations relating to placing a plaque with the names of the 19 traders in the place where the monument is located and organizing a public inauguration ceremony in the presence of the next of kin. The domestic judicial decision ordered the Ministry of Foreign Affairs “to initiate and coordinate all pertinent measures” to comply with this measure of reparation, as ordered in the judgment.⁶⁵ In its monitoring order in the case of the *19 Traders*, the Inter-American Court reiterated⁶⁶ that – in their area of competence – domestic courts play a fundamental role in compliance with or implementation of the judgments of the Inter-American Court, because they must ensure observance of the provisions of the Convention. It also recalled that the fact that the Inter-American Court monitors the status of compliance with the measures of reparation ordered in its judgments does not exclude the constitutional courts from assuming this important role, as revealed by the above-mentioned ruling of the Colombian Constitutional Court.

64 Cf. Case of the 19 Traders v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 23, 2016, consideranda 8 to 10.

65 This domestic Court indicated that, in certain circumstances, it is possible to require compliance and order the execution of an international provision by means of an action for amparo or protection.

66 Cf. Case of Gelman v. Uruguay. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 20, 2013, consideranda 65 to 68, and Case of Artavia Murillo et al. (“In vitro fertilization”) v. Costa Rica. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 26, 2016, considerandum 12.

G. List of cases at the stage of monitoring compliance with judgment

The Court ended 2016, with 182 contentious cases at the stage of monitoring compliance with judgment. The updated list of cases at the stage of monitoring compliance with judgment is available [here](#).

The cases in which the Court is monitoring compliance with judgment appear below in two lists. The first list includes the 168 cases where compliance with judgment continues to be pending and is monitored by the Court. The second list contains the cases in which the Court has applied Article 65 of the American Convention, without any change in the situation that had been verified. Those cases also continue at the stage of monitoring compliance with judgment.

1. List of cases at the stage of monitoring compliance, excluding those in which Article 65 of the Convention has been applied

LIST OF CASES AT THE STAGE OF MONITORING COMPLIANCE

excluding those in which Article 65 of the Convention has been applied

Total Number	No. By State	Name of the Case	Date of the judgment ordering 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	8	Fornerón and daughter	April 27, 2012
9	9	Furlán and family members	August 31, 2012
10	10	Mendoza et al.	May 14, 2013

11	11	Mémoli	August 22, 2013
12	12	Gutiérrez and family	November 25, 2013
13	13	Argüelles et al.	November 2, 2014
BARBADOS			
14	1	Boyce et al.	November 20, 2007
15	2	Dacosta Cadogan	September 24, 2009
BOLIVIA			
16	1	Trujillo Oroza	February 27, 2002.
17	2	Ticona Estrada et al.	November 27, 2008.
18	3	Ibsen Cárdenas and Ibsen Peña	September 1, 2010
19	4	I.V.	November 30, 2016
20	5	Andrade Salmón	December 1, 2016
BRAZIL			
21	1	Ximenes Lopes	July 4, 2006
22	2	Garibaldi	September 23, 2009
23	3	Gomes Lund et al.	November 24, 2010
24	4	Workers of Hacienda Brasil Verde	October 20, 2016
CHILE			
25	1	Palamara Iribarne	November 22, 2005
26	2	Almonacid Arellano et al.	September 26, 2006
27	3	Atala Riffo and daughters	February 24, 2012
28	4	García Lucero	August 28, 2013
29	5	Norín Catrimán et al.	May 29, 2014
30	6	Omar Humberto Maldonado Vargas et al.	September 2, 2015
COLOMBIA			
31	1	Caballero Delgado and Santana	January 29, 1997
32	2	Las Palmeras	November 26, 2002
33	3	19 Traders	July 5, 2004
34	4	Gutiérrez Soler	September 12, 2005
35	5	Mapiripán Massacre	September 15, 2005
36	6	Pueblo Bello Massacre	January 31, 2006
37	7	Ituango Massacres	July 1, 2006
38	8	La Rochela Massacre	May 11, 2007
39	9	Escué Zapata	July 4, 2007
40	10	Valle Jaramillo et al.	November 27, 2008
41	11	Manuel Cepeda Vargas	May 26, 2010
42	12	Vélez Restrepo and family	September 3, 2012
43	13	Santo Domingo Massacre	August 19, 2013
44	14	Afro-descendant Communities displaced from the Rio Cacarica Basin	November 20, 2013
45	15	Rodríguez Vera et al.	November 14, 2014
46	16	Duque v. Colombia	February 26, 2016
47	17	Yarce et al.	November 22, 2016
COSTA RICA			
48	1	Artavia Murillo et al.	November 28, 2012

49	2	Gómez Murillo et al.	November 29, 2016
ECUADOR			
50	1	Suárez Rosero	January 20, 1999
51	2	Tibi	September 7, 2004
52	3	Zambrano Vélez et al.	July 4, 2007
53	4	Chaparro Álvarez and Lapo Íñiguez	November 21, 2007
54	5	Vera Vera et al.	May 19, 2011
55	6	Kichwa Indigenous People of Sarayaku	June 27, 2012
56	7	Quintana Coello et al.	August 23, 2013
57	8	Gonzales Lluy et al.	September 1, 2015
58	9	García Ibarra et al.	November 17, 2015
59	10	Flor Freire	August 31, 2016
60	11	Herrera Espinoza	September 1, 2016
61	12	Valencia Hinojosa et al.	November 29, 2016
EL SALVADOR			
62	1	Serrano Cruz Sisters	March 1, 2005
63	2	García Prieto et al.	November 20, 2007
64	3	Contreras et al.	August 31, 2011
65	4	Massacres of El Mozote and nearby places	October 25, 2012
66	5	Rochac Hernández	October 14, 2014
67	6	Case of Ruano Torres et al.	October 5, 2015
GUATEMALA			
68	1	"White Van" (Paniagua Morales et al.)	March 8, 1998
69	2	Blake	January 22, 1999
70	3	"Street Children" (Villagrán Morales et al.)	May 26, 2001
71	4	Bámaca Velásquez	February 22, 2002
72	5	Myrna Mack Chang	November 25, 2003
73	6	Maritza Urrutia	November 27, 2003
74	7	Molina Theissen	July 3, 2004
75	8	Plan de Sánchez Massacre	November 19, 2004
76	9	Carpio Nicolle et al.	November 22, 2004
77	10	Fermín Ramírez	July 20, 2005
78	11	Raxcacó Reyes	September 15, 2005
79	12	Tiu Tojín	November 26, 2008
80	13	Las Dos Erres Massacre	November 24, 2009
81	14	Chitay Nech et al.	May 25, 2010
82	15	Río Negro Massacres	September 4, 2012
83	16	Gudiel Álvarez et al. ("Diario Militar")	November 20, 2012
84	17	García and family members	November 29, 2012
85	18	Veliz Franco	May 19, 2014
86	19	Human Rights Defender et al.	August 28, 2014
87	20	Velásquez Paiz et al.	November 19, 2015
88	21	Chinchilla Sandoval	February 29, 2016
89	22	Maldonado Ordóñez	May 3, 2016
90	23	Members of the Village of Chichupac	November 30, 2016

and neighboring communities of the municipality of Rabinal			
			HAITÍ
91	1	Fleury et al.	November 23, 2011
			HONDURAS
92	1	Juan Humberto Sánchez	June 7, 2003
93	2	López Álvarez	February 1, 2006
94	3	Servellón García et al.	September 21, 2006
95	4	Kawas Fernández	April 3, 2009
96	5	Pacheco Teruel et al.	April 27, 2012
97	6	Luna López	October 10, 2013
98	7	López Lone et al.	October 5, 2015
99	8	Triunfo de la Cruz Garífuna Community and its members	October 8, 2015
100	9	Punta Piedra Garífuna Community and its members	October 8, 2015
			MEXICO
101	1	González et al. ("Cotton Field")	November 16, 2009
102	2	Radilla Pacheco	November 23, 2009
103	3	Fernández Ortega et al.	August 30, 2010
104	4	Rosendo Cantú et al.	August 31, 2010
105	5	Cabrera García and Montiel Flores	November 26, 2010
106	6	García Cruz and Sánchez Silvestre	November 26, 2013
			PANAMA
107	1	Baena Ricardo et al.	November 2, 2001
108	2	Heliodoro Portugal	August 12, 2008
109	3	Vélez Loor	November 23, 2010
110	4	Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members	October 14, 2014
			PARAGUAY
111	1	"Juvenile Re-education Institute"	September 2, 2004
112	2	Yakye Axa Indigenous Community	June 17, 2005
113	3	Sawhoyamaxa Indigenous Community	March 29, 2006
114	4	Goiburú et al.	September 22, 2006
115	5	Vargas Areco	September 26, 2006
116	6	Xákmok Kásek Indigenous Community	August 24, 2010
			PERU
117	1	Neira Alegría et al.	September 19, 1996
118	2	Loayza Tamayo	November 27, 1998
119	3	Castillo Paez	November 27, 1998
120	5	Constitutional Court	January 31, 2001
121	6	Ivcher Bronstein	February 6, 2001
122	7	Cesti Hurtado	May 31, 2001

123	8	Barrios Altos	November 30, 2001
124	9	Cantoral Benavides	December 3, 2001
125	10	Durand and Ugarte	February 28, 2003
126	11	Five Pensioners	July 8, 2004
127	12	Gómez Paquiyauri Brothers	July 8, 2004
128	13	De la Cruz Flores	November 18, 2004
129	14	Huilca Tecse	March 3, 2005
130	15	Gómez Palomino	November 22, 2005
131	16	García Asto and Ramírez Rojas	November 25, 2005
132	17	Acevedo Jaramillo et al.	February 7, 2006
133	18	Baldeón García	April 6, 2006
134	19	Dismissed Congressional Employees (Aguado Alfaro et al.)	November 24, 2006
135	20	Miguel Castro Castro Prison	November 25, 2006
136	21	La Cantuta	November 29, 2006
137	22	Cantoral Huamaní and García Santa Cruz	July 10, 2007
138	23	Acevedo Buendía et al. (“Discharged and Retired Employees of the Comptroller’s Office”)	July 1, 2009
139	24	Anzualdo Castro	September 22, 2009
140	25	Osorio Rivera y familiares	November 26, 2013
141	26	Case of J	November 27, 2013
142	27	Tarazona Arrieta et al.	October 15, 2014
143	28	Espinoza Gonzáles	November 20, 2014
144	29	Cruz Sánchez et al.	April 17, 2015
145	30	Canales Huapaya et al.	June 24, 2015
146	31	Wong Ho Wing	June 30, 2015
147	32	Santa Bárbara Campesino Community	September 1, 2015
148	33	Galindo Cárdenas et al.	October 2, 2015
149	34	Quispialaya Vilcapoma	November 23, 2015
150	35	Tenorio Roca et al.	June 22, 2016
151	36	Pollo Rivera et al.	October 21, 2016
DOMINICAN REPUBLIC			
152	1	Yean and Bosico Girls	September 8, 2005
153	2	González Medina and family members	February 27, 2012
154	3	Nadege Dorzema et al.	October 24, 2012
155	4	Expelled Dominicans and Haitians	August 28, 2014
SURINAME			
156	1	Moiwana Community	June 15, 2005
157	2	Saramaka People	November 28, 2007
158	3	Liakat Ali Alibux	January 30, 2014
159	4	Kaliña and Lokono Peoples	November 25, 2015
URUGUAY			
160	1	Gelman	February 24, 2011
161	2	Barbani Duarte et al.	October 13, 2011
VENEZUELA			
162	1	Caracazo	August 29, 2002

163	2	Chocrón Chocrón	July 1, 2011
164	3	Barrios Family	November 24, 2011
165	4	Díaz Peña	June 26, 2012
166	5	Uzcátegui et al.	September 3, 2012
167	6	Landaeta Mejías Brothers et al.	August 27, 2014
168	7	Granier et al. (Radio Caracas Televisión)	June 22, 2015

2. List of cases at the stage of monitoring compliance in which Article 65 of the Convention has been applied and the situation verified has not changed

Regarding the application of Article 65 of the American Convention on Human Rights, it should be recalled that this article establishes that, in the annual report on its work that the Court submits to the consideration of the OAS General Assembly, “[i]t shall specify, in particular, the cases in which a State has not complied with its judgments, making any pertinent recommendations.” Also, Article 30 of the Inter-American Court’s Statute stipulates that, in this annual report, “[i]t shall indicate those cases in which a State has failed to comply with the Court’s ruling.” As can be seen, the State Parties to the American Convention have established a system of collective guarantee. Thus, it is in the interests of each and every State to uphold the system for the protection of human rights that they themselves have created and to prevent inter-American justice becoming illusory by leaving it to the discretion of a State’s internal decisions. In previous years, the Inter-American Court has issued orders in which it has decided to apply the provisions of the said Article 65 and, thus, inform the OAS General Assembly of non-compliance with the reparations ordered in the judgments in several cases, requesting the General Assembly that, in keeping with its effort to protect the practical effects of the American Convention, it urge the corresponding States to comply.

LIST OF CASES AT THE STAGE OF MONITORING COMPLIANCE

in which Article 65 of the Convention has been applied and the situation verified has not changed

Total Number	No. by State	Name of the Case	Date of judgment ordering reparations
ECUADOR			
1	1	Benavides Cevallos	June 19, 1998
HAITI			
2	1	Yvon Neptune	May 6, 2008
NICARAGUA			
3	1	YATAMA	June 23, 2005
TRINIDAD Y TOBAGO			
4	1	Hilaire, Constantine and Benjamin et al.	June 21, 2002
5	2	Caesar	March 11, 2005
VENEZUELA			
6	1	El Amparo	September 14 1996
7	2	Blanco Romero et al	November 28, 2005
8	3	Montero Aranguren et al. (Retén de Catia)	July 5, 2006
9	4	Case of Apitz Barbera et al. ("First Contentious-Administrative Court")	August 5, 2008
10	5	Ríos et al.	January 28, 2009
11	6	Perozo et al.	January 28, 2009
12	7	Reverón Trujillo	June 30, 2009
13	8	Barreto Leiva	November 17, 2009
14	9	Usón Ramírez	November 20, 2009
15	10	López Mendoza	September 1, 2011

3. List of cases archived following compliance with judgment

LIST OF CASES ARCHIVED FOLLOWING COMPLIANCE WITH JUDGMENT

Total No.	Cases archived following compliance	Date of judgment ordering reparations	Order to archive the case
ARGENTINA			
1	1. Caso Kimel	May 2, 2008	February 5, 2013
2	2. Caso Mohamed	23 de noviembre de 2012	November 13, 2015
BOLVIA			
3	1. Case of the Pacheco Tineo Family	November 25, 2013	April 17, 2015
BRAZIL			
4	1. Caso Escher et al.	July 6, 2009	June 19, 2012
CHILE			
5	1. Case of "The Last Temptation of Christ" (Olmedo Bustos et al.)	February 5, 2001	November 28, 2003
6	2. Case of Claude Reyes et al.	September 19, 2006	November 24, 2008
COSTA RICA			
7	Case of Herrera Ulloa	July 2, 2004	November 22, 2010
ECUADOR			
8	1. Case of Acosta Calderón	June 24, 2005	February 7, 2008
9	2. Case of Albán Cornejo et al.	November 22, 2007	August 28, 2015
10	3. Case of Salvador Chiriboga	March 3, 2011	May 3, 2016
11	4. Case of Mejía Idrovo	July 5, 2011	September 4, 2012
12	5. Case of Suárez Peralta	May 21, 2013	August 28, 2015
13	6. Case of the Constitutional Tribunal (Camba Campos et al.)	August 28, 2013	June 23, 2016
HONDURAS			
14	1. Case of Velásquez Rodríguez	(1) July 21, 1989	(2) September

			10, 1996
15	2. Case of Godínez Cruz	September 10, 1993	September 10, 1996
		MEXICO	
16	1. Case of Castañeda Gutman	August 6, 2008	August 28, 2013
		NICARAGUA	
17	1. Case of Genie Lacayo	January 21, 1997	August 29, 1998
18	2. Case of the Mayagna (Sumo) Awas Tingni Community	August 31, 2001	April 3, 2009
		PANAMA	
19	1. Case of Tristán Donoso	January 27, 2009	(3) September 1, 2010
		PARAGUAY	
20	1. Case of Ricardo Canese	August 31, 2004	(4) August 6, 2008
		PERÚ	
21	1. Case of Castillo Petruzzi et al.	May 30, 1999	(6) September 20, 2016
22	2. Case of Lori Berenson Mejía	(5) November 25, 2004	June 20, 2012
23	3. Case of Abrill Alosilla et al.	November 21, 2011	(7) May 22, 2013
		SURINAM	
24	1. Case of Aloeboetoe et al.	July 21, 1989	(8) February 5, 1997
25	2. Case of Gangaram Panday	January 21, 1994	(9) November 27, 1998

VI. Provisional measures

During 2016 a public hearing was held on provisional measures in the case of the La Rochela Massacre v. Colombia.

In addition, in 2016, the Court issued 13 orders on provisional measures. These orders had different purposes, namely: (i) to continue or, when appropriate, expand provisional measures; (ii) to lift the measures totally or partially, and (iii) to reject requests for provisional measures.

Furthermore, for the first time, the Court carried out a judicial procedure in order to monitor compliance with provisional measures. This consisted in the visit to a Brazilian prison in the context of the Matter of the Curado Prison Complex with regard to Brazil.

1. Adoption of provisional measures

a) **Matter of the Inhabitants of Communities of the Miskitu Indigenous People of the Northern Caribbean Coastal Region with regard to Nicaragua**

On August 19, 2016, the Inter-American Commission presented a request for provisional measures asking the Court to “order the State of Nicaragua [...] to protect the life and personal integrity of the members of the indigenous communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo and Francia Sirpi of the Miskitu indigenous people, located in the Northern Caribbean Region of Nicaragua.”

On September 1, 2016, the Court considered “the context of violence in the Northern Caribbean coastal region of Nicaragua, and also the worsening of the situation described from 2015 to date” that, in its opinion, revealed “an evident situation of extreme gravity and urgency and the reasonable possibility that harm of an irreparable nature would continue to occur.” Consequently, the Court decided “to order, as a provisional measure, the immediate adoption by the State of Nicaragua of every action

required to eliminate the existing violence, and to protect and ensure respect for the life, personal and territorial integrity, and cultural identity of the members of the Miskitu indigenous people who inhabit these communities and the persons who, presumably, have had to abandon these communities and wish to return.

These measures were expanded on November 23, 2016, see *infra* 2(C)

The Order of September 2016 can be found [here](#).

2. Continuation or expansion of provisional measures and partial lifting, or measures that have ceased to have effects for certain persons

a) Case of Fernández Ortega *et al.* v. Mexico

In its order of February 23, 2016, the Court assessed the implementation of technological protection mechanisms, and police patrols and escorts provided by the State in the context of complying with the provisional measures ordered previously.

In this regard, the Court noted “the delays experienced when repairing or substituting faulty equipment,” as well as the “randomness” or “irregular nature” of the patrols, deficiencies that led the Court to conclude “that, at times, the measures have not been implemented effectively.” The Court also considered that, with regard to Mrs. Fernández Ortega and her family, it “had not been advised of potential risks since 2010.” In addition the Court concluded that “the dangerous situation persisted” in the case of some members of OPIM, the Tlachinollan Center, and Otilia Eugenio Manuel and his family members. The Court decided “to maintain the provisional measures ordered in favor of Inés Fernández Ortega and the members of her family for an additional period that will expire on September 30, 2016,” and to require “the State to continue taking all necessary measures to protect the life and personal integrity of: (a) Otilia Eugenio Manuel and certain family members; (b) 41 members of the Tlapaneco Indigenous Peoples Organization, and (c) 18 members of the Tlachinollan Mountain Human Rights Center.”

This order can be found [here](#).

b) Case of Bámaca Velásquez v. Guatemala

In its order of August 31, 2016, the Court decided “to maintain the provisional measures in favor of Santiago Cabrera López and his family members and Aron Álvarez and his family members.” However, the Court determined: (i) that no acts, attacks, threats or harassment had occurred with regard to certain beneficiaries; (ii) that since “some beneficiaries reside outside Guatemala, the State is unable to implement the measures because it has no jurisdiction beyond its territory,” and (iii) that three beneficiaries were deceased. Consequently, the Court decided to “lift the provisional measures ordered in favor of Alberta Velásquez, Luis Federico López Godínez, Oscar Rolando López Velásquez, Egidia Gebia Bámaca Velásquez, Josefina Bámaca Velásquez, Rudy López, Amín López and his family members, [...] as well as of Blanca Noelia Meléndez, José Pioquinto Álvarez Nájera, Alex Javier Álvarez Nájera, Germán Aníbal de la Roca Mendoza, Kevin Otoniel de la Roca Mendoza, Linda Álvarez Nájera, Jacobo Álvarez Nájera, Óscar Álvarez Nájera, Aracely Álvarez Nájera, Wendy Pérez Álvarez, Sulni Madeli Pérez Álvarez, José Oswaldo Pérez Álvarez and Otoniel de la Roca.” The Court also declared that “the provisional measures granted in favor of José León Bámaca Hernández, José Ernesto Álvarez Paz and Emérita Mendoza had ceased to have effect.”

This order can be found [here](#).

c) Matter of the Inhabitants of Communities of the Miskitu Indigenous People of the Northern Caribbean Coastal Region with regard to Nicaragua

In its order of November 23, 2016, the Court decided “to expand the provisional measures issued in the matter [...], so that the State of Nicaragua should include immediately within the measures required in its order of September 1, 2016, the members of the Miskitu indigenous people who inhabit the community of Esperanza Río Coco, as well as the persons who, presumably, have had to abandon this community and who wish to return.”

This order can be found [here](#).

d) Matter of the Curado Prison Complex with regard to Brazil

In its order of November 23, 2016, the Court ordered the State to “take, immediately, all necessary measures to provide effective protection to the life and personal integrity of all persons deprived of liberty in the Curado Prison Complex, as well as all persons within that establishment [...]”

This order can be found [here](#).

3. Provisional measures that have been lifted completely

a) Case of Rosendo Cantú *et al.* v. Mexico

In its order of February 23, 2016, the Court considered that: (i) “no recent and specific facts had been alleged that would lead to consistent conclusions on the above-mentioned effects of the context [...] in the specific case of the beneficiaries”; (ii) it had not been proved that the “lack of investigation contributes to or has caused a specific situation of extreme gravity and the urgency of avoiding irreparable harm”; (iii) “the Court was informed [of the presumed new danger] eight months after it occurred” and “no evidence of this act” had been presented, and (iv) regarding the alleged need to maintain the measures until the investigation into the facts of the case had concluded, “the information on the investigation is analyzed in the context of monitoring the judgment [...] and is not a matter for the procedure of provisional measures.” Based on the foregoing, the Court decided “to lift and conclude the provisional measures ordered [...] in favor of Valentina Rosendo Cantú and Yenis Bernardino Rosendo as of its order of February 2, 2010.”

This order can be found [here](#).

b) Matter of Galdámez Álvarez *et al.* with regard to Honduras

In its order of November 23, 2016, the Court considered that, “the information forwarded by the parties does not reveal that, currently, Mrs. Orellana and her children are in a dangerous situation related to the one that justified the adoption and maintenance of these measure.” Therefore, the Court decided to lift the provisional measures it had ordered in favor of all the beneficiaries.

This order can be found [here](#).

c) Matter of Lanza Ochoa with regard to Honduras

In its order of November 23, 2016, the Court underscored that the beneficiary of the provisional measures had died and that it therefore considered that the said measures were now irrelevant. Consequently, it decided “to lift and conclude the provisional measures ordered by the Court [...] in favor of Gladys Lanza Ochoa [...] as of its order of June 28, 2010.”

This order can be found [here](#).

d) Case of Wong Ho Wing v. Peru

On May 27, 2016, Wong Ho Wing’s representative presented a request for provisional measures on becoming aware that the person he represented would be extradited on May 29, which “would result in the impossibility of complying with the judgment and in irreparable violation of the right to judicial protection.”

On May 28, 2016, the President of the Inter-American Court issued an order in which he required the State to take urgent measures to ensure the protection of Wong Ho

Wing by postponing the extradition “until the Court has taken a decision on compliance with the provisions of the eleventh operative paragraph of the judgment,” which refer to “the final decision in the extradition proceedings against Wong Ho Wing.”

On June 22, 2016, the Court issued an order on monitoring compliance with the judgment in this case in which it determined that the State had complied with the adoption of a final decision in the extradition proceedings against Wong Ho Wing, and therefore considered that the measures adopted in the order of May 28, 2016, “had ceased to have effect.”

These orders can be found at the following links:

http://www.corteidh.or.cr/docs/medidas/wong_se_15.pdf

http://www.corteidh.or.cr/docs/supervisiones/wong_22_06_16.pdf

4. Requests for provisional measures rejected in 2016

a) Case of *Amrhein et al. v. Costa Rica*

On January 4, 2016, during the processing of the contentious case, José Tomás Guevara Calderón, who is not a presumed victim or a party to the case, requested the adoption of provisional measures so that “the 17 presumed victims and all the persons who have lodged a petition before the Inter-American Commission on Human Rights alleging the violation of the right of appeal pursuant to Article 8(2)(h) of the American Convention, are granted immediately the right to file an appeal.”

In an order of January 19, 2016, the Court declared that, since “José Tomás Guevara Calderón is not a party to the case in reference, [...] it is unable to examine his request for provisional measures.”

This order can be found [here](#).

b) Case of De La Cruz Flores v. Peru

On December 24, 2015, during the process of monitoring compliance with the judgment in this case, Franz Moller Morris, Rodrigo Godoy Araya and Lizelot Yáñez Díaz asked the Court to “order the State of Peru to abstain from taking any measure that would force Mrs. De La Cruz Flores to return to Peru to be tried, while it was not possible to ensure that a third trial would be held pursuant to international standards of due process.”

In its order of January 25, 2016, the Court considered that this request had “not been signed by either [Mrs. De La Cruz Flores] or her legal representative accredited before the Court, and that the persons who had sent this communication (none of whom had signed it) had not been accredited as representatives of the victim.” Therefore, it decided to “reject the request for provisional measures submitted by Frank Moller Morris, Rodrigo Godoy Araya and Lizelot Yáñez Díaz in favor of Mrs. De La Cruz Flores.”

This order can be found [here](#).

c) Case of Nadege Dorzema *et al.* v. Dominican Republic

On December 16, 2015, during the process of monitoring compliance with the judgment in this case, the victims’ representatives requested the Court “to adopt the necessary measures to ensure the life, personal integrity and personal safety of all the members of the Dominican-Haitian Cultural Center (CCDH) [...] as well as of some of their family members,” owing to the “threats and attacks that had occurred in [the jurisdiction of the Dominican Republic] and as a result of direct actions by agents of the security forces, other State officials, and private individuals acting with the acquiescence or tolerance of the highest State authorities.”

In an order of February 23, 2016, the Court considered that the facts and allegations presumably related to the work of the CCDH to implement the provisions of the judgment in the case of Nadege Dorzema were “general, without specifying the circumstances of time, place and manner in which these occurred, [...] which does not allow the Court to verify a direct relationship with the contentious case decided by the

Court.” It therefore decided “to reject the request for provisional measures in favor of the members and family members of the Dominican-Haitian Cultural Center”.

The order can be found [here](#).

5. Judicial procedure on monitoring provisional measures in Brazil: Matter of the Curado Prison Complex

On June 8, a delegation from the Court composed of the acting President Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Patricio Pazmiño, the Secretary Pablo Saavedra and a Secretariat lawyer carried out, for the first time, an on-site procedure in Brazil in the context of monitoring the implementation of the provisional measures ordered on May 22, 2014, in the Matter of the Curado Prison Complex.

The delegation held a meeting with the representatives of the State of Brazil, the beneficiaries of the provisional measures, and the Inter-American Commission, during which it received information on the implementation of the measures by the State and recent developments in this regard, as well as on the obstacles to compliance with the measures. The delegation also visited the buildings of the Curado Prison Complex where prisoners are kept, the cells and the isolation and disciplinary wings, the places for members of the LGBT community, and the infirmaries, kitchen, library and administrative areas. The Court’s judges also interviewed prisoners, prison guards and officials of the Pernambuco Social Rehabilitation Secretariat.

The delegation observed the continuing situation of overcrowding of the almost 7,000 prisoners in the Complex and the disturbing detention conditions that entail imminent danger to the life and integrity of prisoners and prison guards, health officials, and visitors.

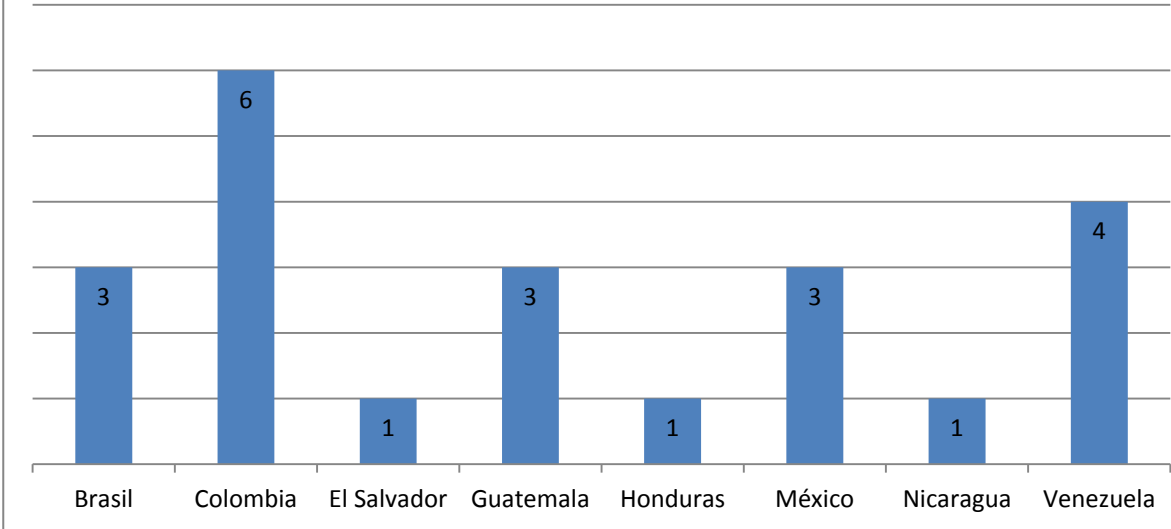
6. Current status of provisional measures

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

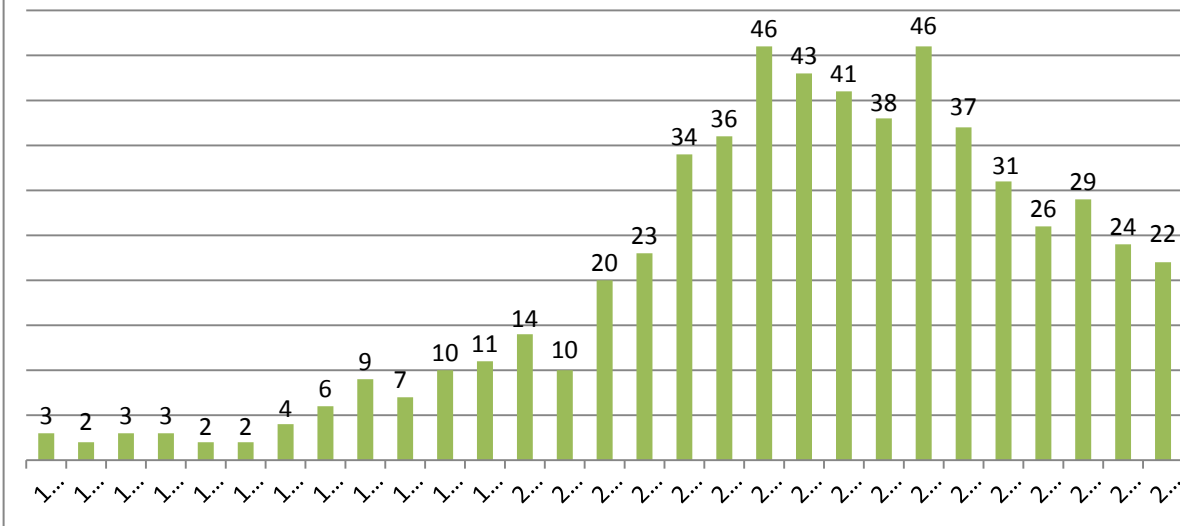
CURRENT STATUS OF PROVISIONAL MEASURES

Number	Name of the Case of Matter ¹	State regarding which the provisional measures have been adopted
1	Socio-education Internment Unit	Brazil
2	Curado Prison Complex	Brazil
3	Pedrinhas Prison Complex	Brazil
4	19 Traders	Colombia
5	Peace Community of San José de Apartadó	Colombia
6	Álvarez et al.	Colombia
7	Danilo Rueda	Colombia
8	La Rochela Massacre	Colombia
9	Mery Naranjo et al.	Colombia
10	Meléndez Quijano et al.	El Salvador
11	Bámaca Velásquez	Guatemala
12	Forensic Anthropology Foundation	Guatemala
13	Mack Chang	Guatemala
14	Kawas Fernández	Honduras
15	Alvarado Reyes et al.	Mexico
16	Castro Rodríguez	Mexico
17	Fernández Ortega et al.	Mexico
18	Members of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coastal Region	Nicaragua
19	Certain Venezuelan Prisons Humberto Prado	Venezuela
20	Barríos Family	Venezuela
21	Luisiana Ríos et al.	Venezuela
22	Uzcátegui et al.	Venezuela

Active provisional measures, by State, at the end of 2016



Active provisional measures, by year



CURRENT STATUS OF PROVISIONAL MEASURES



- | | |
|---|---|
| <p>1 Brasil
 Penitentiary Complex of Pedrinhas
 Matter of Socio-Educational Internment Facility
 Penitentiary Complex of Curitiba</p> | <p>6 México
 Matter of Alvarado Reyes et al.
 Matter of Castro-Rodríguez
 Fernández-Ortega et al.</p> |
| <p>2 Colombia
 La Rochela Massacre
 Matter of Piesca Community of San José de Apartado
 Mery Harango et al.
 19 Trade Union
 Almazra Suárez
 Danilo Rueda</p> | <p>7 Nicaragua
 Members of the Miskitu
 indigenous people of
 the North Caribbean Coast</p> |
| <p>3 El Salvador
 Matter of Meléndez Gujardo et al.</p> | <p>8 Venezuela
 Lussana Fries et al.
 Uzcátegui et al.
 Barrios Family
 Certain Penitentiary Centers of Venezuela. Humberto Prado</p> |
| <p>4 Guatemala
 Mack Chang
 Forensic Anthropology Foundation
 Bárbara Velásquez</p> | |
| <p>5 Honduras
 Andre Alvarado (Kawak Fernández)</p> | |

VII. Advisory function

A. OC-22 Advisory Opinion on entitlement of legal entities to hold rights under the inter-American human right system issued on February 26, 2016

On April 28, 2014, the Republic of Panama submitted a request for an advisory opinion in which it asked the Court to rule on the interpretation and 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 establish federations and confederations 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 the protection of natural persons by legal entities or ‘legally-recognized non-governmental entities’ in order to exhaust the proceedings of the domestic jurisdiction and to lodge complaints before the Inter-American Commission on Human Rights concerning the violation of human rights,” and (b) “the scope and the protection of natural persons by legal entities or ‘legally-recognized non-governmental entities,’ as such, in their capacity as instruments used by natural persons to achieve their legitimate purposes.” Panama also indicated that it wished to know “whether or not Article 16 of the Convention, which recognizes the right of individuals to associate, is limited by this restriction from protecting associations that have been freely created by natural persons as ‘legally-recognized non-governmental entities’ in order to protect their rights expressed and implemented by means of legal entities created under the aegis of the right to associate.”

Pursuant to the request of the applicant State, on February 26, 2016, the Inter-American Court issued the Advisory Opinion “Entitlement of legal entities to hold rights under the inter-American human right system” in which it determined that legal entities are not entitled to the human rights contained in the American Convention. Nevertheless, it established that the Court has jurisdiction to examine alleged violations of the rights of trade unions, federations and confederations, under the

terms of Article 8(1)(a) of the Protocol of San Salvador, which establishes the right of trade unions to establish national and international federations and confederations, and to affiliate with those that already exist, and to function freely.

The Court also ruled that it is possible that, in specific circumstances an individual, who exercises his rights through a legal entity, may have recourse to the inter-American system in order to assert his fundamental rights, which is feasible even when the rights are covered by a legal mechanism or fiction. However, the Court concluded that it is not viable to establish a single formula for these hypotheses, so that in the event that a contentious case is filed, it will determine the manner in which to prove the relationship. The Court also reiterated its case law according to which indigenous and tribal peoples are entitled to rights protected by the inter-American system and, therefore, may accede directly to seek protection for their human rights and those of their members.

Lastly, the Court decided the request regarding whether a presumed victim could comply with the requirement to exhaust domestic remedies through a legal entity, which exhausts such remedies on its own behalf or in representation of its members, by establishing that it is possible to comply with this exhaustion through legal entities in two circumstances. First, if it is proved that the available, appropriate and effective remedies to protect the rights of the natural person were filed, regardless of whether such remedies were filed and decided in favor of a legal entity. Second, if it is proved that there is a convergence between the claims alleged by the legal entity in the domestic proceedings and the presumed violations that the presumed victims argue before the inter-American system.

Find [here](#) the Advisory Opinion.

B. Requests being examined

1. Request submitted by Colombia

On March 14, 2016, the State of Colombia submitted to the Secretariat of the Inter-American Court of Human Rights a request for an advisory opinion asking the Court to interpret the obligations derived from Articles 1(1) (Obligation to Respect Rights), 4(1) (Right to Life), and 5(1) (Right to personal integrity) of the American Convention on Human Rights, in relation to major projects in the marine environment, specifically in the Wider Caribbean Region.

The complete text of the request can be found [here](#):

In accordance with Article 73(3) of the Rules of Procedure of the Inter-American Court, all those interested were invited to submit their written opinion on the matters submitted to the Court's consideration before January 19, 2017.

2. Request submitted by Costa Rica

On May 8, 2016, the State of Costa Rica submitted to the Secretariat of the Inter-American Court of Human Rights a request for an advisory opinion asking the Court to interpret the obligations relating to: (a) the protection provided by Articles 11(2), 18 and 24 in relation to Article 1 of the Convention as regards recognition of a change in a person's name based on his or her gender identity"; (b) the compatibility of the practice consisting in applying article 54 of the Civil Code of the Republic of Costa Rica, Law No. 63 of September 28, 1887, to those persons who wish to change their name based on their gender identity, with Articles 11(2), 18 and 24 in relation to Article 1 of the Convention," and (c) "the protection provided by Articles 11(2) and 24 in relation to Article 1 of the Convention to the recognition of patrimonial rights derived from a relationship between persons of the same sex."

The complete text of the request can be found [here](#).

In accordance with Article 73(3) of the Rules of Procedure of the Inter-American Court, all those interested were invited to submit their written opinion on the matters submitted to the Court's consideration before December 9, 2016.

3. Request submitted by Ecuador

On August 28, 2016, the State of Ecuador submitted to the Secretariat of the Inter-American Court of Human Rights a request for an advisory opinion on “the institution of asylum in its different forms and the legality of its recognition as a human right of every individual based on the principle of equality and non-discrimination.”

The complete text of the request can be found [here](#).

In accordance with Article 73(3) of the Rules of Procedure of the Inter-American Court, all those interested were invited to submit their written opinion on the matters submitted to the Court’s consideration before March 31, 2017.

4. Request that was not accepted for processing

On May 19, 2016, the Secretary General of the Organization of American States, Luis Almagro Lemes, submitted to the Court a request for an advisory opinion in which he asked the Court to indicate “the criteria it considers should ensure, with full respect for the separation of powers, that due process is observed in the impeachment of a national authority; the extreme seriousness of the possible grounds for this type of action in view of its implications as regards respect for the will of the people when electing their leaders, and the situation during the proceedings of that person who should be presumed to be innocent in order to avoid a violation of his or her human rights and a flagrant deviation from the principles that govern all democratic systems.” The Secretary General also asked the Court to indicate “the potential actions [or] the deviations from due process that could affect this, such as prior declarations that would signify a prejudgment by those who will ultimately have to take the decision and the potential consequences on the validity of such proceedings.”

Similarly, the Secretary General specifically indicated that “[i]t is extremely urgent” that the Court refer to “the legality of the reasons cited to impeach President Dilma Rousseff [and to] possible legal errors during the session of the Chamber of Deputies that approved the Special Commission’s document; to the legality of linking the votes of the deputies to grounds other than those in the accusation submitted to the Chamber’s consideration, and also to the partisan circumstances that prevented the

legislators from taking up a position in accordance with their personal convictions.” He added that “the opinion of [the Court] is absolutely relevant for the decisions that [he had] to make in accordance with the obligations that Article 20 of the Inter-American Democratic Charter establishes for the Secretary General.”⁶⁷

In this regard, in an order dated June 23, 2016, the Court recalled that its case law on advisory matters has been that a request for an advisory opinion should not: (a) conceal a contentious case or prematurely seek to obtain a ruling on a matter that may eventually be submitted to the Court in a contentious case; (b) be used as a mechanism to obtain an indirect ruling on a matter in litigation or in dispute at the domestic level; (c) be used as an instrument for an internal political debate; (d) cover, exclusively, issues on which the Court has already ruled in its case law, and (e) seek a decision on factual matters, but rather seek to clarify the meaning, purpose and rationale of the international human rights norms and, above all, assist the OAS organs and Member States to comply fully and effectively with their international obligations.

Consequently, the Court considered that an advisory opinion in this case could constitute a premature ruling on the matter in question, which could subsequently be submitted in the context of a contentious case. It also considered that an answer to the request could entail ruling on a matter that had not yet been settled at the domestic level. Accordingly, the Court also declared that the request submitted by the OAS Secretary General revealed one of those situations in which the purpose and content of the advisory function entrusted to the Court under Article 64(1) of the American Convention would be denatured. It therefore decided not to process the request for an advisory opinion submitted by the Secretary General of the Organization of American States.

Find the order [here](#).

⁶⁷ Article 20 establishes the following: “In the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. The Permanent Council, depending on the situation, may undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy. If such diplomatic initiatives prove unsuccessful, or if the urgency of the situation so warrants, the Permanent Council shall immediately convene a special session of the General Assembly. The General Assembly will adopt the decisions it deems appropriate, including the undertaking of diplomatic initiatives, in accordance with the Charter of the Organization, international law, and the provisions of this Democratic Charter. The necessary diplomatic initiatives, including good offices, to foster the restoration of democracy, will continue during the process.

VIII. Developments in the Court's case law

This section highlights some of the innovative developments in the Court's case law during 2016, as well as criteria that reaffirms the case law already established by the Court. This evolution of case law establishes important standards when domestic judicial organs and officials carry out the control of conventionality within their respective spheres of competence.

In this regard, the Court has repeatedly acknowledged its recognition that domestic authorities are subject to the rule of law and, consequently, obliged to apply the provisions in force under domestic law. However, 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 legal instrument. This obliges States Parties to ensure that the effects of the provisions of the Convention are not impaired by the application of norms that are contrary to its object and purpose. Thus, the Court has established that all State authorities are obliged to exercise a "control of conventionality" *ex officio* to ensure conformity between domestic law and the American Convention, evidently within their respective spheres of competence and the corresponding procedural regulations. This relates to the analysis that the State's organs and agents must make (in particular, judges and other agents of justice) of the compatibility of domestic norms and practices with the American Convention. In their specific decisions and actions, these organs and agents must comply with the general obligation to safeguard the rights and freedoms protected by the American Convention, ensuring that they do not apply domestic legal provisions that violate this treaty, and also that they apply the treaty correctly, together with the case law standards developed by the Inter-American Court, ultimate interpreter of the American Convention.

1. Guarantee of impartiality

The Court asserted that impartiality requires the decision-making official with competence to intervene in a specific dispute to approach the facts of the case free of all subjective prejudice and also to provide sufficient guarantees of an objective nature to eliminate any doubts that the defendant and the community may have concerning an absence of impartiality. Personal or subjective impartiality is presumed unless there is evidence to the contrary. Meanwhile, so-called objective impartiality consists in determining whether the said official, who has been challenged, has provided convincing proof to eliminate legitimate fears or well-founded misgivings about his partiality. This is because any official who takes a decision on the rights of an individual must appear to be acting without being subject to any direct or indirect influence, incentive, pressure, threat or interference, but rather only and exclusively in accordance with – and based on – the law.⁶⁸

The Court noted that the mere fact that a superior officer exercises disciplinary authority is not contrary to the Convention. In certain circumstances, and particularly in the military sphere, this is logical and reasonable. Nor is it contrary to the Convention that, in the context of a disciplinary procedure, an official is suspended from his functions as a precautionary measure based on the applicable norms, and until a final decision has been taken. What is problematic is that, in a particular case, the superior officer, in exercise of his authority, acts or takes decisions previously, outside the disciplinary proceeding, with regard to facts that he must subsequently examine in the context of that proceeding. Therefore, the Court concluded that, in the case in question, it was not possible to affirm that the superior officer's approach to the facts, in his capacity as a disciplinary judge, was free of any preconceived ideas concerning what had happened, in order to form an opinion of what occurred based solely on the documents and evidence submitted during the proceeding.⁶⁹ This constituted a violation of the guarantee of impartiality.

68 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 168.

69 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 180.

2. Obligation to provide adequate grounds

The grounds are the externalization of the reasoned justification that allows a conclusion to be reached. The obligation to provide the grounds for a decision is one of the guarantees of the proper administration of justice, and assures the citizen the right to be tried for the reasons established by law, while also according credibility to judicial decisions in a democratic society. Consequently, adequate grounds must be provided for the decisions taken by the State's domestic organs that may affect human rights; otherwise they would be arbitrary. The grounds provided for a judgment and for certain administrative acts should reveal the facts, reasons and laws underlying the decision taken by the organ that established those grounds, so that any indication of arbitrariness can be rejected. In addition, the grounds should reveal that the arguments of the parties have been taken into account and that all the evidence has been analyzed. Accordingly, the Court concluded that the obligation to provide adequate grounds is one of the "due guarantees" of due process included in Article 8(1).⁷⁰

In the case of disciplinary sanctions, the requirement to provide adequate grounds is greater than in the case of an administrative act, owing to the purpose of disciplinary control; consequently, the gravity of the conduct and the proportionality of the sanction must be examined. In the disciplinary sphere it is essential to indicate the offense precisely and to develop arguments that lead to the conclusion that the offending conduct is sufficiently serious to justify dismissing an individual from his post,⁷¹ when this is the sanction imposed.

The Court stressed that the absence of adequate grounds for disciplinary decisions can have a direct effect on a victim's ability to exercise an appropriate defense in subsequent appeals.⁷²

70 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 182.

71 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 184.

72 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 185.

However, the Court considered that, for the effects of the guarantees established in Article 8(1) of the Convention, the proceedings must be examined as a whole; that is analyzing all the stages, and not merely evaluating one defective phase, unless its effects permeate the whole proceedings and were not rectified at a later stage. The Court has also recognized that the scope of the guarantees established in Article 8(1) of the Convention, such as the obligation to provide adequate grounds, will depend on the nature of the proceedings and the matter these are deciding. The obligation to provide adequate grounds does not call for a detailed response to each and every argument of the parties, but rather a response to the main and essential arguments relating to the purpose of the dispute which guarantees to the parties that they have been heard during the proceedings.⁷³

The Court considered that the reference to, and adoption of, the legal and factual considerations of the lower court (as a first instance) in the decisions of the Council of Junior Officers and the Council of Senior Officers (the appeal organs in this case), when the appellant had not presented any arguments that differed from those submitted previously, complied with the guarantee of adequate reasoning required by the American Convention in disciplinary matters.⁷⁴

3. Right not to testify against oneself – rule of the exclusion of evidence obtained by torture regardless of the result

The Court reiterated that the exclusion of evidence obtained by coercion is absolute and non-derogable. There can be no doubt that any statement obtained by torture, either self-incriminating or incriminating another person, is absolutely invalid as evidence. In this case, acts of torture were committed with the intention of obliging the presumed victim to testify against himself or to provide other information; nevertheless, the victim did not cooperate. In this regard, Article 8)(2)(g) of the Convention, which establishes the right of the accused to play an active role in providing evidence, recognizes the right not to testify against oneself and, more

73 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 186.

74 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 192.

specifically, the right to abstain from testifying in a criminal investigation or proceeding in which an individual is identified as the probable author of a wrongful act, or is suspected of committing one. Given that the administration of criminal justice should be based on the analysis of evidence obtained legally, a means of investigation that entails the use of coercion to break the will of the accused is invalid, because it involves the instrumentalization of the individual and a violation, *per se*, of that right, irrespective of the degree of coercion (from a threat to other cruel, inhuman or degrading treatment or torture) and the result (in other words, that a confession or information is obtained.)⁷⁵

4. Protection of the health of persons deprived of liberty

The Court reiterated the obligation of the States to ensure the life and personal integrity of persons deprived of liberty. Such persons have the right to live in detention conditions that are compatible with their personal dignity, in which their physical and mental health are safeguarded, a series of mechanisms to protect these are implemented, and equal access to health care, regular medical checkups and, when necessary, adequate and prompt medical treatment are ensured. The State has the burden of proof to verify that the rights of the persons deprived of liberty have been respected and ensured adequately, if they suffer from health problems that require appropriate and effective medical care.⁷⁶

In particular, based on the United Nations Standard Minimum Rules for the Treatment of Prisoners, States must provide qualified medical care, including psychiatric care, to persons deprived of liberty in order to respond to urgent cases and also to provide regular care and attention, either in hospital facilities within the place of detention or prison or, if these are not available, in specialized hospitals or health centers. The health service must keep satisfactory, confidential and up-to-date medical records of all those deprived of liberty, which should be accessible to them when they so request. The medical services should be organized and coordinated with the general health administration, and this involves establishing prompt and adequate procedures for the

75 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, para. 176.

76 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, paras. 168 to 177.

diagnosis and treatment of those who are ill, as well as for their transfer when their condition requires special care in specialized prison establishments or in civil hospitals. In order to implement these obligations, health care protocols and prompt and effective mechanisms are required for the transfer of prisoners, particularly in emergency situations or in cases of severe illness.⁷⁷

States must establish appropriate mechanisms to inspect institutions; file, investigate and decide complaints, and establish the appropriate disciplinary or judicial procedures for cases of undue professional conduct or violation of the rights of persons deprived of liberty.⁷⁸

5. Protection of the health of persons deprived of liberty who suffer from serious, chronic or terminal illnesses

The Court determined that persons deprived of liberty who suffer from serious, chronic or terminal illnesses should not remain in prison establishments unless States can ensure that these have appropriate medical units to provide such persons with satisfactory care and treatment, including adequate spaces and equipment, and qualified medical and nursing staff. Also, in the case in question, the Court determined that the State must provide appropriate nutrition and the special diet established for a person suffering from a specific illness. Meals should be controlled by the prison system personnel, or in keeping with the diet prescribed by the medical staff, and according to the basic requirements established for the respective item. In all cases, and especially if it is evident that a person is ill, States have the obligation to ensure that they keep a record or file of the health status and treatment of all those who enter a prison or detention center, either at this place or in the hospitals or medical centers where they receive treatment.⁷⁹

77 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 178.

78 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 179.

79 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 184.

Based on the principle of non-discriminatio, the need for health protection, as part of the State's obligation to ensure the rights to personal integrity and life, increases in the case of a person deprived of liberty who suffers from a serious or chronic illness when their health may grow progressively worse. This may be conditioned, accentuated or specified according to the type of illness; particularly if it is of a terminal nature or, even if it is not of this nature *per se*, but may become complicated or worsened by the individual's circumstances, their detention conditions, or the real capacity of the prison or the responsible authorities to provide health care. It is the prison authorities who bear this responsibility and, possibly and indirectly, the judicial authorities who, *ex officio* or at the request of the person concerned, have to exercise judicial control of the guarantees for persons deprived of liberty.⁸⁰

The authorities must ensure that, when the nature of the illness so requires, regular and systematic monitoring is provided aimed at curing the detainee's illness or preventing it from getting worse, instead of merely treating the symptoms.⁸¹

6. Rights of persons with disabilities deprived of their liberty

The Court considered that the State is obliged to ensure accessibility to persons with disabilities who are deprived of their liberty, in accordance with the principle of non-discrimination and the interrelated elements of health protection; namely, availability, accessibility, acceptability and quality, including making any reasonable and necessary adjustments in the prison to allow such a person to live with the greatest possible independence and in equal conditions to other persons deprived of liberty. In addition, the State must facilitate access, based on the principle of equivalence, to the means to which such individuals would reasonably have had access if they had not been in State

80 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 188.

81 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 189.

custody to achieve their rehabilitation and also to prevent the development of new disabilities.⁸²

7. Access to justice for persons deprived of liberty – control of legality in the execution of the sentence

The Court considered that control of the legality of the actions of the public administration that affect or could affect rights, guarantees or benefits recognized in favor of persons deprived of liberty, as well as judicial control of detention conditions and the monitoring of the execution or compliance with the sentence, should be carried out regularly by competent, independent and impartial judges and courts. The Member States of the Organization of American States must ensure the necessary mechanisms for the establishment and effectiveness of judicial instances for the execution and control of sentences, and make the necessary resources available to ensure that they function adequately.⁸³

Regarding the role of the judges who oversee execution of sentence in protecting the rights of persons who require medical care, these “judicial authorities should act with diligence, independence and humanity in cases in which it has been duly verified that there is an imminent risk to a person’s life owing to the deterioration of their health or the presence of a terminal illness.”

Based on the above-mentioned criteria for the protection of the rights to personal integrity and life of persons deprived of liberty, in the case of specific requests, judges must weigh the State’s interest in the execution of a validly imposed criminal sentence with the need to evaluate the viability of continuing to confine individuals who have been convicted and who are suffering from certain serious illnesses. In other words, when the health pathology is incompatible with the deprivation of liberty – that is, when imprisonment cannot represent an appropriate space for the exercise of basic

82 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, paras. 215-216.

83 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 236.

human rights – it must be ensured that the prison reduces and mitigates the harm to the person and that the most humane treatment possible is provided in keeping with international standards. Thus, if there is danger of harm to life or personal integrity and the detention conditions do not allow the exercise of basic rights, judges should analyze whether alternative or substitute measures to regular imprisonment exist according to the circumstances of the case, without this meaning the extinction of the sentence that was imposed or ceasing to comply with the obligation to ensure its execution. In addition, it should be assessed whether keeping the person in prison will affect not only his or her health, but also the health of all the other prisoners whose possibilities of receiving medical care could be indirectly reduced by the need to dedicate more resources to care for the person who is ill.⁸⁴

Accordingly, the above is conditional on certain particularities of the case, such as the conditions of the center or the environment where the person who is ill is confined; the real possibilities of adequate care for their ailments; the probability of transferring them to another place within or outside the prison system to provide them with treatment (either in the same center or modifying the security regime) and, finally, the medical prognosis as regards the possible complications that could arise if detention is prolonged. In this regard, there are a series of ailments that, without warranting the hospitalization of the patient, make it necessary for them to be kept in a place where their daily activities can be monitored with the special care that cannot be ensured in prison. For example, in cases of chronic, neurodegenerative or terminal illnesses, or those that, in general, require treatment that can only be provided by a specialized carer.⁸⁵

Thus, when there are elements to indicate that the prisoner has suffered, or may suffer, serious consequences owing to his or her precarious state of health, which mean that execution of the criminal sentence will seriously impair their life and integrity or is physically impossible to serve, because the material and human resources do not exist within the detention center to deal with the situation, then it is justified to consider the application of a substitution for the sentence of deprivation of

⁸⁴ Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 244.

⁸⁵ Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 245.

liberty (such as house arrest, change in the security regime, early release or deferred execution), as special measures. This type of decision, in addition to being justified by reasons of dignity and humanity, would eliminate the institutional risks arising from the deterioration in health of the person in the said conditions and the risk of death within the prison. In any case, if the judge does not adopt a substitute measure, he must exercise control over previous administrative activities and, if errors are identified, order their immediate rectification or reparation.⁸⁶

It should be clarified that the above does not mean that, in every case, the judges who oversee execution of sentence are obliged to decide to release persons deprived of liberty. The relevant point is that the said judge should proceed with the greatest care and due diligence based on the specific needs for protection of the person deprived of liberty and the rights in question; particularly, if complications may occur or the illness worsens due to the person's circumstances, lack of institutional capability to deal with the situation, or the negligence of the responsible prison authorities. This means that, when exercising adequate judicial control of the guarantees of persons deprived of liberty, judges who supervise the execution of sentence must take their decisions based on the broadest possible assessment of probative elements, particularly those of an expert and technical nature, including prison visits or inspections to verify the situation. In this way, whatever the final decision, it should reveal adequate grounds and due reasoning.⁸⁷

In view of the particular relationship of subjection and control between the State and persons deprived of liberty, it corresponds to the prison authorities to ensure that such persons have adequate access to and provision of the medication and diet prescribed by their physicians. Consequently, it is not appropriate that they must constantly have recourse to the courts to resolve problems with the prison administrators in order to ensure the protection of their rights.⁸⁸

86 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 246.

87 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 247.

88 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 253.

8. Obligation to investigate non-violent deaths of persons deprived of liberty

Since the State must provide, *ex officio*, a sufficient and effective explanation to establish the circumstances of the non-violent death of a person who is deprived of liberty, the failure to determine criminal responsibility does not necessarily prevent the investigation continuing into other types of responsibilities, including administrative responsibility if this is appropriate, according to the circumstances of each case.⁸⁹

9. Principle of legality in cases of terrorism

The Court reiterated that it is evident that a State has the right and the obligation to ensure its own safety and to maintain public order within its territory and, therefore, it has the right to use legitimate force to restore this situation when necessary. There is universal consensus, and especially on the American continent, as regards the threat that terrorism represents to democratic values and international peace and security, as well as to the enjoyment of the fundamental rights and freedoms. Consequently, States may adopt all those measures that are adequate, necessary and proportionate to prevent and, when appropriate investigate, prosecute and punish, acts of a terrorist nature that may and should be punished as egregious offenses under domestic law, given that many of such acts are extremely illegal.⁹⁰

At the same time, it must be understood that the prevention and elimination of crime should be executed within limits and in keeping with procedures that preserve both public safety and full respect for the human rights of those who are subject to the State's jurisdiction; an essential requirement to avoid the paradox of fighting crime with crime. Consequently, the existence of an internal armed conflict at the time of the facts of which the victim in this case was accused does not exonerate the State from its obligation to respect and ensure the human rights established in the American Convention. Those rights subsist however difficult the conditions in the country, and despite the recognition that terrorist violence – whoever the protagonists –

89 Case of Chinchilla Sandoval v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of February 29, 2016. Series C No. 312, para. 259.

90 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, para. 214.

undoubtedly harms not only the individual but also the whole of society, so that it warrants the most energetic rejection. However awful this gross criminality, and even in states of emergency, States are obliged to ensure that the principle of legality and the essential judicial guarantees are observed in all circumstances.⁹¹

A State in which the rule of law is respected can only punish someone based on what he or she has done, but never for what he or she is and, consequently, the principle of legality and, derived from this, the non-retroactivity of an unfavorable criminal law, must be observed by all the State's organs within their respective jurisdictions particularly when exercising their punitive powers.⁹²

The correct drafting of an offense should always ensure that the criminal act is clearly defined and should establish its objective and subjective elements in order to differentiate it from acts that are not punishable and from other wrongful acts sanctioned with non-penal measures. The sphere of application of each offense should be delimited as clearly and exactly as possible, in an explicit, precise, restrictive and prior manner. Although strict respect for legality should always be observed by the legislator when establishing an offense, extreme care must be taken in some cases, such as terrorist offenses, not only due to the severity of the punishments applied to this type of crime, but also to avoid any temptation to include political or common offenses within such crimes. Consequently, it is highly desirable that in the case of terrorist offenses, the criminalized conduct be delimited as clearly and precisely as possible.⁹³

The Court has also underlined that it is for the judge, when applying the criminal law, to abide strictly by its provisions and to observe the greatest possible rigor in ensuring that the conduct of the accused is adapted to the definition of the offense, so that he does not penalize acts that are not punishable by law; in other words, he does not make an analogical integration.⁹⁴

91 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, para. 215.

92 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, para. 218.

93 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, paras. 219 to 220.

94 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, para.221.

Article 9 of the American Convention establishes that “[n]o one shall be convicted of any act or omission that did not constitute a criminal offense, under the applicable law, at the time it was committed.” Criminal law based on “acts” is a basic guarantee of all criminal law in keeping with human rights. It was precisely in view of the horrendous consequences of the disregard of this basic premise of human rights that, starting in 1948, efforts were made to develop such rights. Pursuant to all the human rights instruments, criminal law directly rejects the so-called “offender-based criminal law” that considers the offense only as a sign or symptom that allows a personality or nature to be identified, and even extends to atypical acts, provided it is considered that they fulfill the same function of subjective identification.⁹⁵

“Offender-based criminal law” has included different elements, one of them the so-called element of “dangerousness,” which does not relate to this case and which this Court has rejected. Based on the contextual facts, the Peruvian Supreme Court appears to have tried to extricate itself from the contradiction by unintentionally falling into some of the other versions in which criminal law lost itself which were basically: (a) the criminal law of state of mind, and (b) the criminal law of intention – the terrible consequences of which resulted in the proclamation of offense-based criminal law in international human rights instruments.⁹⁶

According to the criminal law of state of mind, the distinctiveness of an act does not result from the objective definition or from the malice or intention leading to the result, but rather from the “state of mind” or internal disposition of the subject: friend or enemy. The elements of the “state of mind” are not always contrary to human rights, because they may be used to limit or to attenuate more extensive prohibitions; however they are always suspicious when they increase the punishment and, evidently, they are virtually inadmissible when they directly determine the definition of the conduct in particularly egregious offenses. The “state of mind” has led to long discussions, but criminalization on the basis of this alone has clearly been rejected by the case law and doctrine of democratic countries. In the present case, the domestic court did not pay sufficient attention to the fact that what it identified as characteristic of the offense in Sr. Pollo Rivera’s conduct was directly the “state of mind” that it

95 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, paras. 243 to 257.

96 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, paras. 243 to 257.

deduced from the repetition of simple acts, such as medical curative assistance, that were not only uncharacteristic of the offense, but even promoted by law.⁹⁷

The other element of the pre-war offender-based criminal law was the so-called “criminal law of intention,” according to which, it was unimportant whether or not an action was simply an attempt or remained at the stage of the mere preparation of an act, and it was unimportant whether or not it was characteristic of the offense. It was sufficient for the “cleansing” function assigned to this conception of criminal law that it revealed the unlawful intention of the agent; in other words, that it revealed that he was an enemy of the law.⁹⁸

10. Obligation to investigate rapes committed by State agents

The Court has repeatedly ruled that the failure to investigate rapes committed by the State’s security agents should not be dealt with as a collateral offense, but rather its investigation should form part of each stage of a global strategy to investigate possible torture. The Court also determined that sexual violence should be investigated respecting the cultural characteristics of the victims.⁹⁹

11. Procedural guarantees under Article 8(2) of the Convention apply in any punitive proceeding

The Court reiterated that a review of its case law to date reveals that the Court has considered that the guarantees under Article 8(2) of the Convention are not exclusive to criminal proceedings, but may also be applied in any punitive procedure. However,

97 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, paras. 243-257.

98 Case of Pollo Rivera et al. v. Peru. Merits, reparations and costs. Judgment of October 21, 2016. Series C No. 319, paras. 243-257.

99 Case of the Members of the Village of Chichupac and neighboring communities in the Municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328, para. 256

in each case it is necessary to determine the basic guarantees that relate to a specific punitive but non-criminal procedure, in keeping with its nature and scope.¹⁰⁰

12. The requirement of prior notification in punitive procedures

The Court determined that the right of the accused to prior detailed notification of the criminal charges brought against them is also applicable to those matters of any other nature stipulated in Article 8(1) of the American Convention, although this requirement may be of a different scope and importance. The Court noted that in punitive disciplinary procedures, the scope of this guarantee means that defendants must be advised of the conduct they committed that supposedly violated the disciplinary rules.¹⁰¹ In particular, the Court considered that, in this case, the victim should have been informed, at least, of the reasons for her dismissal and that reference should have been made to the relationship between her conduct and the rule that was supposedly infringed. The Court also considered that the victim had not been notified clearly of the reasons why the disciplinary procedure had been instituted against her and of the specific reasons for her dismissal. This omission constituted a violation of the guarantee of prior notification and the right of defense.¹⁰²

13. Application of the principle of legality in disciplinary procedures

The Court also considered that the principle of legality is applicable to disciplinary procedures, even though its scope depends to a great extent on the matter in question. The exactitude required in the case of a rule involving a disciplinary sanction may differ from the exactitude required in criminal matters, owing to the nature of the

100 Case of Maldonado Ordoñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 75.

101 Case of Maldonado Ordoñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 80.

102 Case of Maldonado Ordoñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 83.

disputes that each of them seeks to settle. In the case of *Maldonado Ordoñez*, the Court reached the conclusion that the victim had been dismissed for a conduct that did not constitute a disciplinary offense and that was not included in the provisions cited to justify the sanction imposed. Therefore, the Court found that there had been a violation of the principle of legality.¹⁰³

14. The right to equality and non-discrimination

The Court reiterated that the notion of equality stems directly from the oneness of mankind and is inseparable from the essential dignity of the person. On this basis any situation is unacceptable that, considering a certain group superior, accords it privileges; or, conversely, considering it inferior, treats it with hostility or in any way discriminates against it in the enjoyment of rights that are recognized to those who do not form part of that group. The Court also recalled that States must abstain from taking steps that are aimed, in any way, at directly or indirectly creating situations of discrimination *de jure* or *de facto* and are obliged to adopt positive measures to reverse or change any discriminatory situations that exist in their societies against any specific group of persons. This entails the special obligation of protection that the State must exercise with regard to the acts and practices of third parties that, with its tolerance or acquiescence, create, maintain or encourage discriminatory situations.¹⁰⁴

The Court also reiterated that Article 1(1) of the Convention is a general norm whose content extends to all the provisions of the treaty and establishes the obligation of States Parties to respect and ensure the full and free exercise of the rights and freedoms recognized therein "without any discrimination." In other words, whatever its origin or form, any treatment that could be considered discriminatory in relation to the exercise of any of the rights recognized in the Convention is *per se* incompatible with this instrument. The failure of the State to comply with the general obligation to respect and ensure human rights, by any discriminatory treatment, gives rise to its international responsibility. Thus there is an inseparable link between the obligation to

103 Case of *Maldonado Ordoñez v. Guatemala*. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 95

104 Case of *Duque v. Colombia*. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, paras. 91 and 92.

respect and ensure human rights and the principle of equality and non-discrimination.¹⁰⁵

The Court also reaffirmed that the general obligation under Article 1(1) refers to the State's obligation to respect and ensure "without discrimination" the rights contained in the American Convention, and that Article 24 protects the right to "equal protection of the law." That is to say, Article 24 of the American Convention prohibits discrimination by the law, not only as regards the rights contained in this treaty, but also as regards all the laws enacted by the State and their implementation. In other words, if a State discriminates in the respect or guarantee of a treaty-based right, it would be in non-compliance with the obligation established in Article 1(1) and the substantive right in question. If, to the contrary, the discrimination refers to an unequal protection by domestic law or its implementation, the fact should be examined in light of Article 24 of the American Convention in relation to the categories protected by Article 1(1) of the Convention.¹⁰⁶

15. Real or perceived sexual orientation, equality before the law, and exclusion from the armed forces

The Court reiterated that the sexual orientation and gender identity of the individual are categories protected by the Convention. Thus, any discriminatory law, act or practice based on an individual's sexual orientation is prohibited by the Convention. Consequently, no provision of domestic law, or decision or practice whether by State authorities or private individuals, may reduce or restrict in any way the rights of the individual based on his or her sexual orientation. The Court concluded that the inter-American Convention prohibits discrimination, in general, including categories such as sexual orientation, which cannot be used as a basis for denying or restricting any of

105 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 93.

106 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para 94.

the rights established in the Convention. Any discrimination of this type would be contrary to the provisions of Article 1(1) of the American Convention.¹⁰⁷

16. Discriminatory nature of a difference in treatment

The Court reaffirmed its case law according to which any difference in treatment is discriminatory when it does not have an objective and reasonable justification; in other words, when it does not seek a legitimate objective and there is no proportionality between the means used and the end sought. The Court also indicated that in the case of the prohibition of discrimination based on one of the protected categories established in Article 1(1) of the Convention, the eventual restriction of a right requires rigorous grounds, which means that the reasons used by the State to differentiate treatment must be particularly weighty and based on comprehensive arguments.¹⁰⁸

17. Right to equality of same-sex couples in relation to patrimonial rights

The Court recalled the prohibition of any direct or indirect discrimination *de facto* or *de jure* based on race, color, sex, age, language, religion, political or other opinion, national or social origin, economic status, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, civil status or any political, social or other condition that is used or to annul or impair the equal enjoyment or the exercise of the right to social security, or to attempt to do so.¹⁰⁹ In addition, it cited the United Nations Committee on Economic, Social and Cultural Rights which had indicated that “States Parties should ensure that a person’s sexual orientation is not a barrier to

107 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, paras. 104 and 105.

108 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 106.

109 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 108.

realizing Covenant rights, for example, in accessing survivor's pension rights."¹¹⁰ Similarly, the Court indicated that everyone has the right to social security and to other measures of social protection, without discrimination based on sexual orientation or gender identity. Therefore, States must adopt all necessary legislative, administrative and other measures in order to ensure access, in equal conditions and without discrimination based on sexual orientation or gender identity, to social security and other measures of social protection, including employment benefits, maternity or paternity leave, unemployment benefits, insurance, health care or benefits (including bodily changes related to gender identity), other social insurances, family benefits, funeral benefits, pensions and benefits relating to the loss of support for spouses or partners as a result of illness or death.¹¹¹

Likewise the Court reiterated that the lack of consensus in some countries with regard to full respect for the rights of sexual minorities cannot be considered a valid argument to deny or restrict their human rights or to perpetuate and reproduce the historical and structural discrimination that these minorities have suffered. The fact that this could be a controversial matter in some sectors and countries, and that it is not necessarily an issue on which there is consensus, cannot lead this Court to abstain from making a ruling, because, when doing so, it must refer only and exclusively to the international obligations that the States assumed by sovereign decision under the American Convention.¹¹²

Furthermore, citing the Human Rights Committee of the United Nations, the Court established that "the distinction between same-sex partners, who are excluded from pension benefits under law, and unmarried heterosexual partners, who are granted such benefits, is not reasonable and objective, and there were no factors justifying such a distinction, thus it constituted discrimination based on a person's sexual orientation."¹¹³

110 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 109.

111 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 110.

112 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 123.

113 Case of Duque v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2016. Series C No. 322, para. 111.

18. Sexual orientation and equality before the law

The Court recalled that a person's sexual orientation is linked to the concept of liberty and the possibility of everyone to self-determination and to choose freely the circumstances that give a sense to their existence, in accordance with their own choices and convictions. Thus, a person's sexual orientation will depend on how they identify themselves.¹¹⁴

The Court reiterated that a person's sexual orientation is a category protected by the Convention. Consequently, no provision of domestic law, or decision or practice, whether by State authorities or private individuals, may reduce or restrict in any way the rights of the individual based on his or her sexual orientation, either real or perceived, because that would be contrary to Article 1(1) of the American Convention.¹¹⁵

The Court also established that the scope of the right to non-discrimination based on sexual orientation was not restricted merely to the condition of being homosexual, but included its expression and the necessary consequences in a person's life project. Thus, sexual acts were a way of expressing a person's sexual orientation, and were therefore protected under the same right to non-discrimination based on sexual orientation.¹¹⁶

The Court noted that discrimination may be based on real or perceived sexual orientation. The Court has already indicated that "[i]t is possible that a person may be discriminated against based on the perception that others have of his or her relationship with a group or social sector, regardless of whether this corresponds to the reality or to the victim's self-identification." Discrimination based on perception has the purpose or effect of preventing or annulling the recognition, enjoyment or exercise of the human rights and fundamental freedoms of those subject to such discrimination, irrespective of whether or not they identify themselves with a specific category. As in

114 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 102.

115 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 118.

116 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 119.

other forms of discrimination, individuals are reduced to a single characteristic that is attributed to them, without taking other personal conditions into consideration. This diminishing of the identity is materialized in a differentiated treatment and, thus, in the violation of the rights of the person concerned.¹¹⁷

In addition, the Court underlined that the international recognition of the right to non-discrimination based on real or apparent sexual orientation has been accompanied by the gradual prohibition of the criminalization of consensual sexual acts between adults of the same sex.¹¹⁸

The Court recalled that a difference in treatment is discriminatory when it has no objective and reasonable justification; in other words, when it does not seek a legitimate end and the proportionality between the means used and the end sought is unreasonable. Furthermore, the Court has established that, in the case of the prohibition of discrimination based on any of the protected categories established in Article 1(1) of the Convention, the eventual restriction of a right requires rigorous grounds. This signifies that the reasons used by the State to differentiate treatment must be particularly serious and be supported by comprehensive arguments. Indeed, it is the State that has the burden of proof to show that the difference in treatment between homosexual sexual acts and so-called "lawful sexual acts" is justified, without founding its decision on stereotypes.¹¹⁹

The Court emphasized that, in order to maintain military discipline, it could be reasonable and admissible to impose restrictions on sexual relations on military premises or during military service. However, the absence of adequate justification for the harsher penalty assigned to homosexual sexual acts leads to a presumption as to the discriminatory nature of this measure.¹²⁰ In this regard, the Court underscored that the prohibition of discrimination in the armed forces based on sexual orientation has been recognized in international instruments, by human rights organs, and the European

117 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 120.

118 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 123.

119 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 125.

120 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 127.

Court of Human Rights,¹²¹ and also in the legislation and case law of some countries of the region.¹²²

The Court considered that the prohibition to discriminate on the basis of sexual orientation, as it has been interpreted by this Court, includes and extends to all the spheres of the personal development of those subject to the jurisdiction of a State Party to the Convention. Therefore, the exclusion of persons from the armed forces based on their sexual orientation, either real or perceived, is contrary to the American Convention.¹²³

19. Contemporary slavery and human-trafficking – evolutive interpretation of the concepts of Article 6(1) of the American Convention

The Court gave content to the concepts contained in Article 6(1) of the Convention: slavery, involuntary servitude, the trafficking of women and slaves, and forced labor, taking into consideration developments in this matter in the different branches of international law, in particular international human rights law. The Court considered that the right not to be subjected to slavery, involuntary servitude, forced labor and the trafficking of women or slaves is an essential right under the American Convention.¹²⁴

20. Characteristics and attributes of slavery

The Court indicated that the concept of slavery has evolved and is no longer limited to the formal ownership of a person. In this regard, the Court established that the two essential elements to define a situation as slavery are: (i) an individual's situation or condition, and (ii) the exercise of any of the attributes of the right to property; that is,

121 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 128.

122 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 131.

123 Case of Flor Freire v. Ecuador. Preliminary objection, merits, reparations and costs. Judgment of August 31, 2016. Series C No. 315, para. 136.

124 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 243.

that the enslaver exercises power or control over the person who is enslaved to the point of annulling the victim's personality¹²⁵. Thus, the Court indicated that, nowadays, in order to determine that a situation constitutes slavery, the manifestation of the so-called "attributes of the right to property" must be evaluated based on the following elements: (a) restriction or control of an individual's autonomy; (b) loss or restriction of a person's freedom of movement; (c) realization of a gain for the perpetrator; (d) absence of the victim's consent or free will, or its impossibility or irrelevance owing to threat of use of force or other forms of coercion, fear of violence, deception, or false promises; (e) employment of physical or psychological violence; (f) the vulnerable situation of the victim; (g) detention or captivity, and (h) exploitation.¹²⁶

21. Involuntary servitude as a form of slavery

The Court also indicated that the absolute prohibition of traditional slavery and its interpretation have evolved to include certain forms of this phenomenon that are manifested in different ways nowadays, but retaining certain essential common characteristics with traditional slavery.¹²⁷ These include exercising control over a person by means of physical or psychological coercion in a way that entails the loss of their individual autonomy, and their unwilling exploitation. Therefore, the Court considered that involuntary servitude should receive the same protection and entail the same obligations as traditional slavery. It indicated that the expression "involuntary servitude" of Article 6(1) of the American Convention should be interpreted as "the obligation to perform work for others, imposed by means of coercion, and the obligation to live on the property of the other person, without the possibility of changing this situation."¹²⁸

125 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 269.

126 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 272.

127 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 276.

128 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 280.

22. Human-trafficking under the American Convention on Human Rights

The Court found that the concepts of the trafficking of women and slaves have exceeded their literal meaning so as to protect the “persons” who are trafficked in order to exploit them in different ways without their consent. The Court indicated that the element that connects the prohibition to traffic women and to traffic slaves is the same: the control that the perpetrators exercise over the victims during the transport or transfer in order to exploit them. The Court also identified the following elements that are common to both types of trafficking: (i) control of the person’s movement or physical environment; (ii) psychological control; (iii) adoption of measures to prevent escape, and (iv) forced or compulsory labor.¹²⁹ Consequently, the Court concluded that the expression “slave trade and traffic in women” in Article 6(1) of the American Convention should be interpreted broadly to refer to “human-trafficking.” The purpose of trafficking in slaves and women is to exploit a human being; thus, from the perspective of the interpretation that is most favorable to the human being and the *pro persona* principle, the protection provided by this article cannot be restricted merely to women or to the said “slaves.”¹³⁰

The Court established that the prohibition to traffic women and slaves under the American Convention refers to: (i) the capture, transport, transfer and reception of persons; (ii) resorting to threats or the use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a situation of vulnerability, or the granting or reception of payments or benefits for obtaining consent from a person who has authority over another. In the case of minors under the age of 18 years, these requirements are not a necessary condition for characterizing trafficking, and (iii) for any purpose of exploitation.¹³¹

129 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 288.

130 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 289.

131 Case of the Workers of Hacienda Brasil Verde v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of October 20, 2016. Series C No. 318, para. 284.

23. Differentiated impact of displacement on members of indigenous communities

The Court emphasized the differentiated impact that displacement has on the ethnic and cultural identity of the indigenous peoples, which places them in a situation of special vulnerability, because traditional communal, cultural and religious practices are affected in a particularly serious way.¹³² In addition, the Court underlined the impact of displacement on women at the cultural, social, family and individual level, placing them in a special situation of risk of suffering others forms of violence.¹³³ The Court also stressed the vulnerable situation of children who are forced to live in an alien culture, which results in a loss of identity and cultural uprooting.¹³⁴

24. Precautionary measures involving a surety

The Court indicated that requiring a surety as a precautionary measure in the context of criminal proceedings represents a guarantee aimed at ensuring that the defendant will comply with his procedural obligations. Consequently, the Court asserted that when this refers to the payment of a sum of money or a tangible guarantee, special attention should be given to the extent of the risk when determining the amount, so that this is proportionate: the greater the procedural risk, the greater the bond or surety required, based on the specific financial situation of the accused, and ensuring that it never becomes impossible to comply with it. Otherwise, if it is decided to establish a disproportionate surety in relation to the procedural risk, or one that is in excess of the real financial capacity of the accused, the enjoyment of liberty on bail becomes illusory, and the right to equality before the law may be violated.¹³⁵

The Court noted that no precise criteria exist to establish the amount of a surety or personal bond; however, comparative law offers guidance that, without completely

132 Case of Members of the Village of Chichupac and neighboring communities of the municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328, para. 197.

133 Case of Members of the Village of Chichupac and neighboring communities of the municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328, para. 198.

134 Case of Members of the Village of Chichupac and neighboring communities of the municipality of Rabinal v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 328, para. 202.

135 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 114.

eliminating the margin of discretion of the competent judicial authority, allows certain objective parameters to be established. These include the following in particular: (a) the defendant's personal circumstances, profession, family and social situation; (b) the characteristics of the act and the *quantum* of the expected penalty (the higher this is, the greater the surety because the defendant would have a greater interest in evading the action of justice); (c) the defendant's background; (d) whether the defendant has a known domicile or place of residence; (e) whether pending or parallel proceedings against him exist, and (f) whether he was a fugitive from justice or has a criminal record.¹³⁶

Regarding the existence of pecuniary requirements that represent limitations to the ability to accede to a right contained in the Convention, as in the case of sureties in order to have access to precautionary measures that do not involve deprivation of liberty during criminal proceedings, the Court recalled that the means used must correspond to the end sought and, indeed, should not signify the denial of this right.¹³⁷

Furthermore, in similar terms to the European Court of Human Rights, the Inter-American Court indicated that, in the context of a trial, precautionary measures are aimed at ensuring the defendant's appearance at the hearing, and that the nature and amount of the surety required must be related, above all, to the person on trial, his financial situation or relationship to the person paying the surety, the foregoing in order to achieve the highest level of certainty possible, understanding that the perspective of an action against the guarantor, if the defendant does not appear for trial, would constitute sufficient grounds to convince him to abstain from absconding.¹³⁸ In addition, the Court indicated that, if sufficient evidence and guarantees exist to grant release on bail, but the detainee is not offered this possibility, the detention became unreasonable and, consequently, unlawful. Moreover, the surety required to release the detainee could not signify a heavier burden than the one required to obtain a reasonable degree of certainty that he would appear at trial. Thus, if the detainee was required to provide a surety for a sum that he would be unable to raise, and it could be presumed that a lower sum could also provide a

136 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 115.

137 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 117.

138 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 118.

sufficient guarantee that he would comply with the summons to trial, the continuation of pre-trial detention would not be reasonable.¹³⁹

The Court also established that the decision to impose a surety should include, in this specific case, a justification of the amount and take into account the financial means of the accused, the extent of the harm caused by the presumably criminal activity, as well as the possible risk of the person absconding.¹⁴⁰ This necessarily means that, when analyzing the need and proportionality of the measure imposed, the judicial authorities who order precautionary measures involving a surety instead of pre-trial detention should take into consideration the fact that similar precautionary measures may have been imposed in other proceedings.¹⁴¹

25. Restrictions to freedom of movement

The Court indicated that the right to personal liberty contained in Article 7 of the Convention and the right to freedom of movement contained in Article 22 of this instrument are necessarily related. It indicated that while Article 7 protected personal liberty in general, Article 22 did this specifically, referring in particular to freedom of residence and movement, and the ability to leave a State's territory.¹⁴² It added that this is therefore a relationship of the general to the specific, where the right to freedom of movement and residence is merely a specific way of implementing the right to personal liberty. Understood thus, Article 7(1) of the Convention is residual in nature, because it should be recalled that there are as many ways of restricting liberty as there are manifestations of liberty. In this regard, when the American Convention, as in the case of the right to freedom of movement and residence, expressly regulates one aspect of the exercise of liberty, and establishes the possibility of restricting it in specific circumstances, and the facts of a specific case, such as this one, are adapted to these circumstances, it is necessary to give priority to examining this right in light of Article 22, without it being pertinent to apply the right to personal liberty contained in Article 7(1).¹⁴³

139 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 119.

140 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 123.

141 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 124.

142 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 142.

143 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 143.

In the specific case of the relationship between, on the one hand, a restriction of freedom of movement and, on the other hand, a deprivation of physical personal liberty, the Court recalled that simple restrictions of freedom of movement did not constitute a hypothesis of deprivation of physical liberty. It indicated that the difference between the two was merely of degree or intensity and not of nature or essence. It added that, in order to define this difference, it was necessary to examine each specific case taking into account a series of criteria, such as the nature, duration, effects and manner of execution of the measures in question.¹⁴⁴

26. Non-custodial precautionary measures

The Court recalled that the right to freedom of movement and residence, including the right to leave the country, may be restricted, pursuant to the provisions of Articles 22(3) and 30 of the Convention. However, it reiterated that precautionary measures that affect a defendant's personal liberty and freedom of movement are exceptional in nature, because they are limited by the right to the presumption of innocence and the principles of necessity and proportionality. Furthermore, such precautionary measures cannot be a substitute for the punishment of deprivation of liberty, or comply with the purposes of this, which could happen if they continued to be applied once the procedural risks that it was sought to prevent had ceased to exist. Otherwise, the application of a precautionary measure that affects the personal liberty and freedom of movement of the defendant would be equivalent to anticipating a punishment before judgment had been handed down, which would be contrary to general universally-recognized principles of law¹⁴⁵.

The Court reiterated that it was not sufficient that the measure to restrict a freedom (in this case freedom of movement) was expressly established in domestic law; it was also necessary that, when applying a precautionary measure, whether custodial or non-custodial, the judicial authorities justified: (a) that the purpose of the measure restricting that right is compatible with the Convention; that is, to ensure that the accused will not prevent the implementation of the proceedings or evade the action of justice; (b) that there is a need to impose them, in the sense that they are absolutely essential to achieve the desired objective, and that no less burdensome measure exists

144 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. para. 144.

145 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, paras. 146 and 141.

in relation to the right affected, among all those that are equally appropriate to achieve the proposed objective, and (c) that the measure is strictly proportionate, so that the sacrifice inherent in the restriction of the right is not exaggerated or excessive in relation to the advantages obtained by the restriction and achievement of the end sought. On this basis, the Court added that, when analyzing whether to impose this type of measure, the judicial authorities should base their decisions on objective evidence indicating that the procedural risks that it is sought to avoid could materialize.¹⁴⁶

Lastly, the Court indicated that, as in the case of custodial precautionary measures, the pertinence of maintaining non-custodial precautionary measures should be revised periodically by the corresponding judicial authorities in order to determine whether the risk subsists, as well as the necessity and proportionality of the measures, and the consequent pertinence of maintaining them in force.¹⁴⁷

27. Informed consent in medical practice

The Court affirmed that the informed consent of the patient was a condition *sine qua non* in medical practice, and was based on respect for the patients' autonomy and liberty to take their own decisions in keeping with their life project. In other words, informed consent ensured the practical effects of the norm that recognizes autonomy as an essential element of the dignity of the person.¹⁴⁸

In this context, the Court referred to the special relationship between the physician and the patient, which is characterized by the asymmetry in the exercise of power assumed by the physician based on his special professional knowledge and his control of information. This differentiated power is regulated by certain principles of medical ethics; above all, the principles of the patient's autonomy, beneficence and not maleficence, and justice. Given that the physician is a person who also acts on the basis of his own convictions and preferences, it is plausible that some of his actions may run counter to the life project of his patients. Consequently, the Court understood that the principle of autonomy acquired vital importance in the sphere of health, as a

146 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, paras. 146 and 147.

147 Case of Andrade Salmón v. Bolivia. Merits, reparations and costs. Judgment of December 1, 2016. Series C No. 330, para. 148.

148 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 159.

rule that established an adequate balance between the beneficial medical action and the power of decision that the patient, as an autonomous moral subject, retains in order to avoid actions of a paternalistic nature in which patients are instrumentalized to avoid harm to their health.¹⁴⁹

The Court noted that, in the practice of medicine, recognition of informed consent as an expression of the autonomy of the individual in the sphere of health has signified a paradigm shift in the physician-patient relationship, because the model of informed and free decision-making has evolved to focus on a participatory process with the patient, rather than the former paternalistic model where the physician, as the expert in the matter, was the one who decided what was best for the person who needed a particular treatment. From this perspective, patients are empowered and collaborate with the physician as the main actor in the decisions that must be taken with regard to their bodies and health, rather than as the passive subject of this relationship. The patient is free to choose alternatives that physicians may consider contrary to their advice, and this is the most evident expression of respect for autonomy in the sphere of medicine. This paradigm shift is reflected in various international instruments which refer to the right of the patient to freely accede to a beneficial medical act or allow it to be performed, without any type of violence, coercion or discrimination, after having received appropriate and timely information prior to taking the decision.¹⁵⁰ Based on the foregoing, the Court considered that informed consent with regard to the pertinence of a medical intervention with permanent consequences on the reproductive apparatus, such as tubal ligation, belongs to the sphere of autonomy and private life of a woman who can freely choose the life project that she considers most appropriate; in particular, whether or not she desires to retain her reproductive ability, the number of children she wishes to have, and the spacing between them.¹⁵¹

The Court considered that the obligation to obtain informed consent meant establishing limits to the medical act and guaranteeing that those limits were adequate and effective in the practice, so that neither the State, nor third parties, especially the medical community, could arbitrarily interfere in the sphere of personal integrity or

149 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 160.

150 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 161.

151 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 162.

privacy of the individual, especially as regards access to health services, and in the case of women, family planning services and others related to sexual and reproductive health. Similarly, the rule of informed consent relates to the right of access to information on health matters, because patients can only give their informed consent if they have received and understood sufficient information that allows them to take a considered decision. Consequently, in the area of health, the Court reiterated the instrumental nature of the right of access to information, because it was an essential means to obtain informed consent and, thus, for the realization of the right to autonomy and liberty as regards reproductive health.¹⁵²

From the point of view of international law, informed consent is an obligation that has been established in the development of the human rights of patients, and it constitutes both a legal and ethical obligation of health personnel, who must consider it an element of medical expertise and good practice (*lex artis*) in order to ensure accessible and acceptable health services.¹⁵³

The Court considered that the concept of informed consent consisted in a prior decision to accept or submit to a medical act in the broadest sense, freely obtained – in other words, without threats or coercion, improper induction or incentives – and given after obtaining adequate, complete, reliable, comprehensible and accessible information, provided that this information had really been understood, which would allow the individual to give their full consent. This rule consists not only in an act of acceptance, but also in the result of a process in which the following elements must be fulfilled for it to be considered valid, namely: that the consent is prior, free, full and informed. All these elements are interrelated, because consent cannot be free and full if it has not been given after obtaining and understanding comprehensive information.¹⁵⁴ These elements, which are characteristic of valid consent, have been present in the fields of medicine and human rights since the adoption of the 1947 Nuremberg Code of medical ethics and continue to be central to the development of bioethics and law.¹⁵⁵

152 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 163.

153 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 164.

154 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 166.

155 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 175.

28. Elements of informed consent and their application in cases of female sterilization

Regarding the elements that constitute this and that were in force at the time of the facts of the case, the Court described their content based on the international *corpus juris* in this matter. The first element of consent to be considered is that of its prior nature, which means that it must always be given before any medical act. The Court noted that it was not possible to validate consent after the medical act had concluded. The Court determined that exceptions existed where it was possible that health personnel could act without requiring consent in cases in which the person was unable to give their consent and an immediate urgent or emergency surgical or medical procedure was necessary given the serious risk to the patient's health or life. Regarding tubal ligation, the Court stressed that this surgical procedure, whose purpose is to prevent a future pregnancy, could not be characterized as an urgent or emergency procedure due to imminent danger, so that the foregoing exception was not applicable. Also, as regards the 1993 World Health Organization publication, "Female sterilization: a guide to provision of services," the Court concluded that it should be read in relation to the American Convention in light of the autonomy and the rights of patients, so that the exception to obtaining consent was only valid in situations where there were medical indications and in circumstances that met the necessary requirements of urgency and emergency for it to be in order.¹⁵⁶

The second element emphasizes the aspect of the freedom of the manifestation of consent. Thus, the Court considered that consent must be given in a free, voluntary and autonomous manner, without pressure of any kind, without using it as a condition for submission to other procedures or benefits, without coercion, threats or disinformation. Furthermore, consent could not be given as a result of actions by health personnel that induced individuals to steer their decision in a certain direction, and it could not be the result of any type of inappropriate incentive. Consent was personal, because it must be provided by the person who would undergo the procedure. In cases of sterilization, the Court considered that, owing to its nature and the serious consequences on reproductive capacity as regards a woman's autonomy, which entailed respecting her decision on whether or not to have children and the

¹⁵⁶ Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 175 to 180.

circumstances in which she wished to have them, she was the only person authorized to give consent, rather than third persons. Thus, it was not permissible to request the authorization of the partner or of any other person in order to perform sterilization.¹⁵⁷

In the Court's opinion, consent could not be considered free if a woman was asked to give it when she was unable to take a fully informed decision, because she was in a situation of stress and vulnerability, *inter alia*, such as during or immediately after a natural birth or a Caesarean section. The Court underscored that a woman's freedom to decide and to take responsible decisions with regard to her body and her reproductive health, especially in sterilization cases, could be undermined by discrimination in access to health care; by the differences in the power relationships with regard to the husband, the family, the community and the medical personnel; by the existence of additional factors of vulnerability, and of gender and other stereotypes among health care providers. Factors such as race, disability and socio-economic position could not be used as grounds to limit the patient's freedom of choice with regard to sterilization, or to circumvent obtaining her consent.¹⁵⁸

The Court recognized that the power relationship between physician and patient could be increased by the unequal power relationships that have historically characterized relationships between men and women, as well as by the socially dominant and persistent gender stereotypes that, consciously or unconsciously, constitute the basis for practices that reinforce the position of women as dependents and subordinates. In the health care sector, gender stereotypes may result in distinctions, exclusions or restrictions that impair or annul the recognition, enjoyment or exercise of human rights and, specifically, the sexual and reproductive rights of women, based on their condition. In particular, the Court noted that negative or prejudicial gender stereotypes could have an impact on and affect a woman's access to information on sexual and reproductive health, as well as the the way in which her consent is obtained. A woman who is unaware of her sexual and reproductive rights may have a less assertive attitude towards her rights. This could lead her to have greater confidence in her physician's criteria, or to the health professionals adopting a paternalistic attitude in relation to their patient. Both situations could open the door to a situation of the

157 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 181 to 182.

158 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 183 to 185.

exercise of power where health professionals take decisions without taking into account the autonomy and will of their patient.¹⁵⁹

The Court described some gender stereotypes frequently applied to women in the health sector that have serious effects on the autonomy of women and their decision-making power. For example, the situation in which a decision in favor of sterilization of the woman and not of the man is induced, based on the stereotype that it is the woman who plays the principal role in procreation who should be responsible for contraception.¹⁶⁰

Lastly, the Court emphasized that consent must be full and informed. Full consent can only be obtained after adequate, complete, reliable, comprehensible and accessible information has been received and fully understood. After analyzing several sources, the Court considered that, at the very least, health care providers should offer the following information: (i) an evaluation of the diagnosis; (ii) the purpose, method, probable duration, and expected benefits and risks of the proposed treatment; (iii) the possible adverse effects of the proposed treatment; (iv) treatment alternatives, including those that are less intrusive, and the possible pain or discomfort, risks, benefits and secondary effects of the alternative treatments proposed; (v) the consequences of the treatment, and (vi) what may occur before, during and after the treatment. In the Court's opinion, if alternative treatments exist, this information forms part of the concept of necessary information in order to give informed consent, and providing information on these alternatives is considered a basic element of this consent.¹⁶¹

The Court asserted that obtaining consent should be the result of a process of communication, during which the qualified person presents clear, impartial, exact, truthful, timely, complete, adequate, reliable and non-technical information; in other words, information that provides the necessary elements to take an informed decision. Health care personnel should not act in a coercive or inductive manner in order to achieve the acceptance of the medical act, based on considering that the medical

159 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 186 to 187.

160 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 188.

161 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 189 to 190.

opinion has primacy over the autonomy and wishes of the patient. Health care providers are essential agents to ensure that adequate information is provided, so that the way in which the information is presented is very important because both the health care personnel and the patient may have preconceived ideas about the treatment, added to the fact that problems often arise in the communication of ideas between individuals. Thus, in order to ensure that the information is fully understood, the health care personnel must take into account the particularities and needs of patients, such as their culture, religion, lifestyle, and level of education. This forms part of the obligation to provide culturally acceptable health care. Furthermore, the Court considered that, to ensure that the information is fully understood and an informed decision can be taken, it is necessary to ensure that there is a reasonable period of reflection, which could vary according to the conditions in each case and the circumstances of each person. This constitutes a guarantee that is especially effective to avoid non-consensual or involuntary sterilizations.¹⁶²

During procedures to obtain informed consent for female sterilization, the Court considered that the obligation to provide information was an increased, owing to the nature and entity of the act. The special considerations that health care personnel should take into account when obtaining informed consent to sterilization, and the necessary information that such personnel should provide so that the patient may take an informed decision, should include, in addition to the above, the information that sterilization constitutes a permanent method and, since the patient may subsequently regret her sterility, the provision of information on the existence of alternative, less intrusive, methods of anticonception, even male anticonceptive methods, because these could be an appropriate alternative. Furthermore, it is desirable to take into consideration, and provide information on that fact that, since it involves a surgical procedure, sterilization could have risks or side effects and that there is a measurable rate of errors in any method of sterilization, but also that there could be consequences if the treatment is rejected. However, it should be made clear that the decision corresponds to the woman alone, although it may be discussed with her partner. Similarly, it is necessary to mention that, even though sterilization may be medically appropriate, it is not an urgent or emergency measure.¹⁶³

162 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 191-192.

163 Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 193.

In addition, even though there is no international consensus or one resulting from the domestic law of the States with regard to whether consent should be given orally or in writing, the Court considered that the evidence of its existence should be documented or recorded formally in some instrument. Evidently, this will depend on each case and situation. In cases of female sterilization, owing to the relevance and implications of the decision and for greater legal certainty, consent should be given in writing insofar as possible. The more important the consequences of the decision to be taken, the more rigorous should be the controls to ensure that a valid consent is given.¹⁶⁴

29. Non-consensual sterilization and gender-based discrimination

In relation to the obligation not to discriminate, the Court recognized that, historically, a woman's liberty and autonomy as regards her sexual and reproductive health had been limited, restricted or annulled based on negative and prejudicial gender stereotypes, as described by the physician himself during the hearing of the case in question. This is because, socially and culturally, men have been assigned a preponderant role in decision-making with regard to a woman's body, and women have been seen, above all, as a reproductive entity. In particular, the Court noted that non-consensual sterilization was influenced by repercussions of the historically unequal relationship between women and men. Even though sterilization was an anticonceptive method used by both women and men, non-consensual sterilization affected women disproportionately, because they were women, and because society assigned the reproductive function and family planning to women. Furthermore, the fact that women were the sex with the biological capacity to become pregnant and give birth meant that, during a Caesarean section, they were frequently subject to non-consensual sterilization, because they were excluded from the process of taking informed decisions with regard to their body and reproductive health on the basis of the prejudicial stereotype that they were unable to take such decisions responsibly. Consequently, the Court considered that the strict protection provided by Article 1(1) of the Convention was required for reasons of sex and gender because, traditionally,

¹⁶⁴ Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 195 and 196.

women had been marginalized and discriminated against in this regard. Therefore, the Court made a rigorous examination of this aspect of the case.¹⁶⁵

30. Obligation to investigate non-consensual sterilization

The Court concluded that a review of international practice revealed that a wide range of measures were considered appropriate to remedy a non-consensual, involuntary, coerced or forced sterilization, depending on the circumstances of the case and the context in which the facts occurred. Nevertheless, the Court considered it necessary to assert that, if prior, free, full and informed consent was an essential requirement to guarantee that a sterilization was not contrary to international standards, the possibility should also exist to file a claim before the corresponding authorities in those cases in which the physician had failed to comply with that ethical and legal requirement of medical practice, in order to establish the corresponding responsibilities and have access to compensation. The foregoing should include the availability and access to administrative and judicial remedies to file claims if prior, free, full and informed consent had not been obtained, and the right for such claims to be examined promptly and impartially. To the contrary, that would deny the practical effects of the rule of informed consent. In brief, the Court considered that there was growing recognition that the practice of non-consensual, involuntary, coerced or forced sterilization could not remain unpunished, because that would lead to perpetuating discriminatory stereotypes in the area of reproductive health at the institutional level based on the belief that women were not competent to take decisions concerning their own bodies and health. That did not necessarily mean that criminal proceedings were required in every case, but that the State should provide mechanisms for filing claims, which were adequate and effective to establish individual responsibilities, in either the disciplinary, administrative or judicial sphere, as appropriate, so as to ensure adequate redress to the victim.¹⁶⁶

¹⁶⁵ Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, para. 243.

¹⁶⁶ Case of I.V. v. Bolivia. Preliminary objections, merits, reparations and costs. Judgment of November 30, 2016. Series C No. 329, paras. 310 and 311.

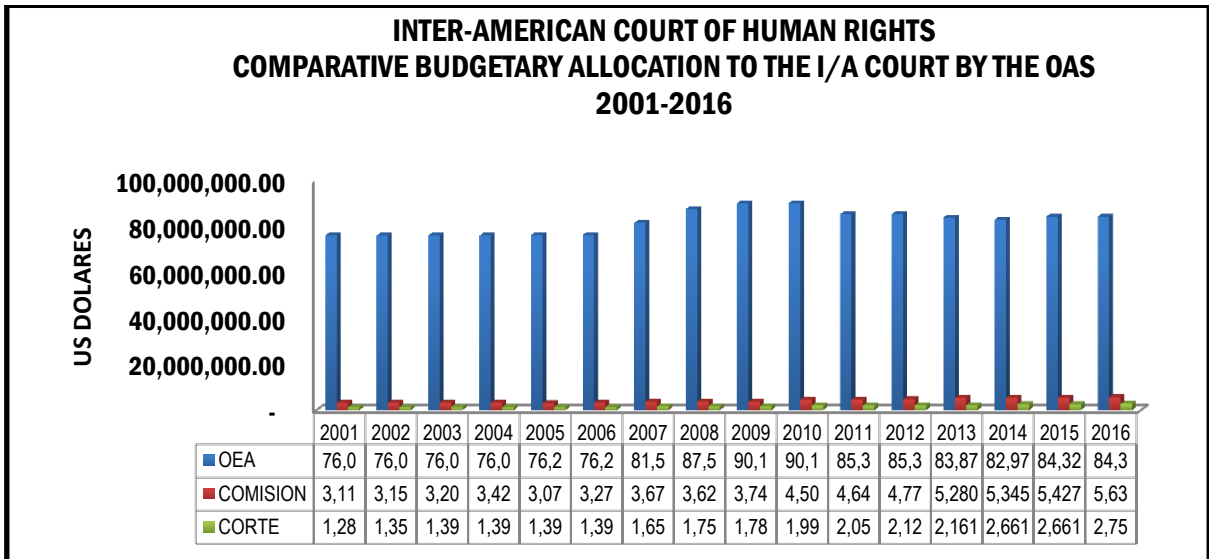
IX. Budget

A. Income

The total regular and special income received by the Court during the 2016 accounting exercise was US\$5,147,157.23; of this, US\$4,567,773.15 was executed.

1. Regular income: US\$2,756,200.00

The Court’s ordinary income from the OAS regular budget, approved during the 2015 General Assembly, amounted to **US\$2,756,200.00**, which represented 53.55% of the Court’s total income for the financial exercise. The remainder was covered by special income as described below.



2. Special income: US\$2,390,957.23

Special income is provided by voluntary contributions from States, international cooperation projects, and voluntary contributions from various other entities. In 2016, the total amount received as special income was US\$2,390,957.23. This voluntary income was composed as follows:

a) Voluntary contributions from States: US\$971,343.58

During 2016 the Court received voluntary contributions amounting to US\$971,343.58, from the following Member States:

- Chile: US\$15,000.00
- Costa Rica, under the headquarters agreement: US\$103,010.25
- Ecuador: US\$333,333.33
- Mexico: US\$500,000.00
- Peru: US\$20,000.00
- Colombia: On December 12, 2016, the Court received a communication from the Secretariat for Administration and Finance of the OAS General Secretariat announcing a contribution of US\$50,000.00 to the Court from the Government of the Republic of Colombia. The contribution should be received during the first two months of 2017.
- Panama: During 2016, the Inter-American Court of Human Rights and the Judiciary of the Republic of Panama signed a framework cooperation agreement that includes a contribution of B/.100,000.00, which should be received during 2017.

b) Contributions from international cooperation projects: US\$1,363,013.65

(1) Spanish Agency for International Development Cooperation (AECID): US\$83,281.80.

Project "Strengthening the capacities of the Inter-American Court to evaluate the implementation and status of compliance with provisional measures and to decide particularly complex contentious cases" (CDH - 1401). In 2016, the income from this project was US\$83,281.80, corresponding to 30%. This represented the last disbursement for the project that ended on December 31, 2015; it covered expenditures made in 2015.

(2) Spanish Agency for International Development Cooperation (AECID): US\$251,991.00.

Project "Protection of victims and members of vulnerable groups by means of provisional measures and deciding contentious cases involving alleged discrimination on the basis of sexual orientation and guarantees of due process (CDH - 1501). During 2016, the Court received payments in three tranches. The first for 10% or US\$25,199.10. The second for 60% corresponding to US\$151,194.60 and the last disbursement for 30%, which represented US\$75,597.30. A total of US\$251,991.00 was received from AECID for this project in 2016, all of which was executed.

(3) Norwegian Ministry of Foreign Affairs: US\$386,065.39

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. As a result of a third amendment, the project was extended until December 2016, by Addendum No. 3 to the contract dated November 13, 2015. For 2016, the sum of US\$386,065.39 was received, all of which was executed.

(4) Norwegian Ministry of Foreign Affairs: US\$232,892.44

Project "Strengthening the judicial capacities of the Inter-American Court of Human Rights and the dissemination of its work 2017-2019," Program CAM 2665, CAM 16/0001 for a total of US\$1,463,400.00 over three years. According to the contract for this project, the starting date was January 2017; however, the first tranche of US\$232,892.44 was transferred and registered in December 2016.

(5) Government of the Kingdom of Denmark: US\$204,027.84

Regional Human Rights Program in Central America, Pro-Derechos 2013-2015: the closing date of this project was extended to December 2016 and, in 2016, represented income of US\$204,027.84, which covered the budget approved for the year.

(6) European Commission: US\$106,082.66

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." This project was planned to cover 24 months starting in May 2014; however, an amendment was signed which extended it to December 2016. In July 2016, the Court received the second contribution for the sum of US\$106,082.66. At the end of 2016, a final transfer of approximately US\$31,627.92 was pending.

(7) Federal Ministry of Economic Cooperation and Development (BMZ) of the German Federal Republic: US\$73,672.52

The Federal Ministry of Economic Cooperation and Development (BMZ) of the German Federal Republic provided support to the Court through the German cooperation agency, 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) 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." GIZ agreed to provide the Court with 350,000.00 euros, which were distributed, by means of specific contracts, over 2014, 2015 and 2016. The transfers to the Court were made in US dollars.

During 2016 two funding contracts were signed, as follows:

- The first for support to the "114th regular session of the Court in San José, Costa Rica," for US\$53,872.52.

- The second for support for the “Modernization of the information networks of the Inter-American Court of Human Rights,” for US\$22,000.00. The Court received an initial payment of US\$19,800.00 in 2016. This contract will conclude on January 31, 2017.

(8) Association Agreement for projects in the context of the program of the United Nations High Commissioner for Refugees (UNHCR): US\$25,000.00

On November 2016, the Court signed this agreement with the United Nations High Commissioner for Refugees (UNHCR). Its purpose is “to support the enhancement of the institutional capacities of the Inter-American Court of Human Rights.” The agreement covers the acquisition of information technology to administer the reception and flow of the briefs submitted to the Court, as well as their subsequent filing and the creation of digital files. Funds were also provided for the translation of a judgment. The total amount of the agreement was US\$25,000.00, which was received on December 22, 2016. The project will conclude on January 31, 2017.

c) Contributions from other institutions and voluntary technical assistance agreements: US\$56,600.00

- Costa Rican Lawyers’ Professional Association: US\$15,000.00.
- United Nations High Commissioner for Refugees (office in Costa Rica): US\$10,000.00.
- Universidad de Santa Clara: US\$1,600.00.
- National Human Rights Commission, Mexico. Specific collaboration agreement: Training project for the promotion and defense of human rights in Mexico: US\$30,000.00.
- The Federal Ministry of Economic Cooperation and Development (BMZ) of the German Federal Republic, through the Center for International Migration and Development. A working group formed by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) and the German Employment Agency continued to provide technical assistance to the Court in 2016, by

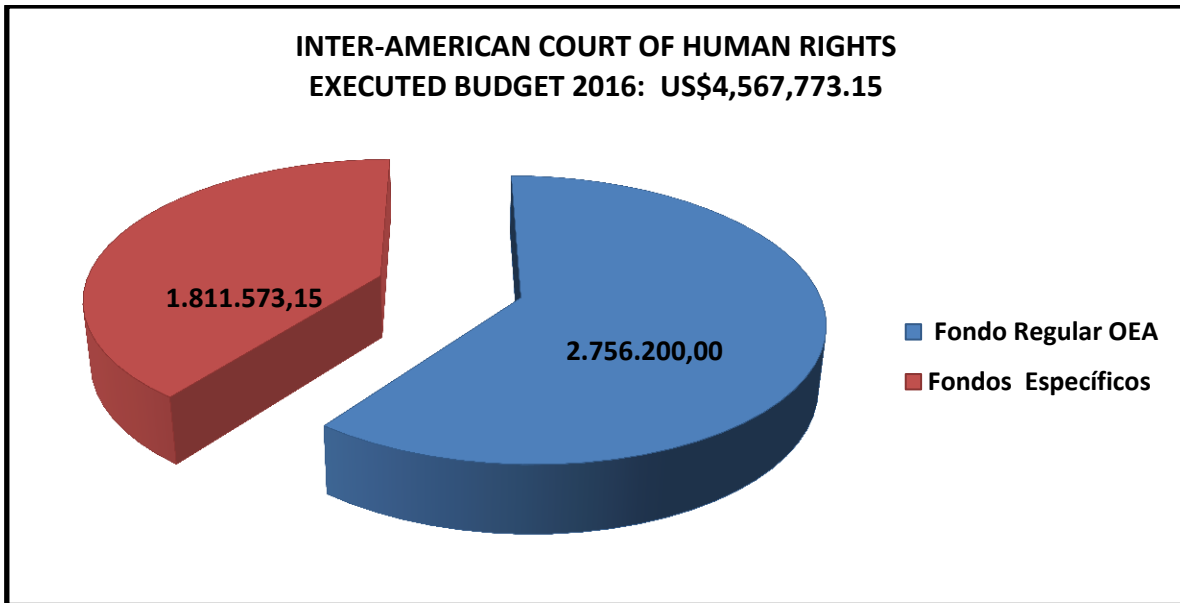
assigning a lawyer who works in the Court's Secretariat. Also, BMZ, through GIZ, has continued to implement the DIRAJus project, which includes the work of a German lawyer who carries out research on access to justice and is developing an important tool entitled "Digest" which is described in section XI of this report on the dissemination of the Court's case law.

- The University of Notre Dame provided technical assistance by partial financial support for two lawyers who worked at the Secretariat for six months.
- Under an agreement signed with the European Court of Human Rights, a lawyer from that Court's Secretariat carried out an exchange, and incorporated a working group at the Secretariat of the Inter-American Court for three months.

B. Total budget 2016

It should be noted that not all the income received in 2016 was destined to finance that year's budget. Some of the income received in 2016 was for projects and ordinary expenses in 2017. This relates to the funds from Mexico and Ecuador amounting to US\$608,333.33 which have been budgeted for the 2017 fiscal exercise. Also, Norway provided the sum of US\$232,892.44 which represents an advance exclusively to fund a project that commences in January 2017 and will extend until 2019.

In 2016, the Court executed a budget of US\$4,567,773.15, composed of ordinary income from the OAS Regular Fund (60.0%) and specific or special income (40.0%), as shown in the following table:



C. The Inter-American Court’s response to its precarious financial situation

As can be seen, a large part of the Court’s budget (40%) corresponds to special income, based on voluntary contributions from States, international cooperation projects, and contributions from other institutions under technical assistance agreements. This means that the Court’s budget is unpredictable.

This situation was exacerbated because the Court was notified that the cooperation it had been receiving from Denmark and Norway would be suspended definitively at the end of 2015; however, the situation with regard to Norwegian cooperation was reversed at the end of 2016 and another cooperation agreement was signed to cover the period from 2017 to 2019. Moreover, the Court took specific steps to try and mitigate the probable impact on its predictable future income of this withdrawal of some of the international cooperation that it had been receiving.

At the institutional level, the Court’s Secretariat initiated a policy of austerity that enabled savings to be made by reducing expenses and seeking more efficient ways to perform its tasks. This institutional savings policy gave priority to the human resources, so that work could continue normally without affecting the staff.

At the same time, during the last half of 2015 and all of 2016, the Court, through its President, implemented a strategy that sought to obtain further resources, advising the Member States of the American Convention of the situation and seeking new donors.

In this regard, a special session of the OAS Permanent Council was called on March 16, 2016, in order to inform the Council of the Court's budgetary situation. Likewise, during the presentation of the 2015 Annual Report to the Committee on Juridical and Political Affairs of the OAS Permanent Council on March 17, the President of the Inter-American Court emphasized the Court's precarious budgetary situation and urged that, by 2018, definitive bases should have been established to provide the American continent with a court composed of full-time judges, an adequately structured secretariat, and a system duly strengthened in light of current realities. Also, on October 31, the Vice President of the Court, Judge Eduardo Ferrer Mac-Gregor, was present at a meeting of the OAS Special General Assembly held in order to discuss the 2017 budget of the Organization of American States.



Furthermore, on January 20, the President and the Vice President of the Court attended a meeting in Washington with the OAS Secretary General in order to discuss the Court's budgetary problems, as well as the need to expand the basic budget provided by the OAS. It should be noted that, following this meeting, the Secretary General published on his official Twitter account that he "reiterated [his] full support for the Inter-American Court."

In addition, on August 29, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights held a meeting in which they took the decision to set up a working group composed of members of the two organs in order to seek joint solutions to the grave financial situation faced by the inter-American human rights system in light of the severe impact of the crisis on the defense and protection of human rights in the region, as well as on access to international justice. This working group would seek medium- and long-term structural solutions to ensure adequate and sustainable financing for the mandate and functions of each organ, in order to propose solutions that would avert any future financial crises.

On September 30, the Court and the Commission submitted a joint proposal to the OAS Secretary General for the adequate and sustainable financing of the inter-American human rights system. The proposal sought to adjust the budgetary envelope so that the main funders of the two organs of the system would be the Member States of the Organization of American States (OAS).

The joint proposal recommended that the annual budget for the inter-American system of human rights should be US\$18,204,450 a year, divided as follows: US\$11,228,250 for the Commission and US\$6,976,200 for the Court. This budget would ensure the sustainability and predictability of the funds available for the two organs of the system, improving their planning and administration capabilities. It would also allow the two organs to increase their institutional capacities in keeping with their mandates. It was drawn up by the working group on the budget, and can be found [here](#).

D. Budget from the Regular Fund approved for 2017

During its fifty-first special session, held in Washington, D.C. on October 31, 2016, the OAS General Assembly approved a budgetary envelope for the Court of US\$2,756,200.00 for 2017. This amount is the same as that approved for 2016.¹⁶⁷

E. Audit of the financial statements

During 2016, an audit was conducted of the Inter-American Court's financial statements for the 2015 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, the Victims' Legal Assistance Fund, and also the contributions from other States, universities and other international agencies.

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 March 15, 2016, report of *Venegas and Colegiados*, Auditors and Consultants, the Court's financial statements adequately reflected the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2015, 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, the Organization's Inspector General and the Board of External Auditors. In addition, each cooperation project is subject to an independent audit to ensure the most effective use of the resources.

¹⁶⁷ See "Program-Budget of the Organization for 2016-2017" approved by the General Assembly during the fiftieth special session, November 2015, AG/RES.1 (L-E/15), available at: <http://www.oas.org/budget/>

X. Mechanisms to promote access to inter-American justice: Victims' Legal Assistance Fund (FAV) and Inter-American Defender (DPI)

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 a 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.

A. Victims' Legal Assistance Fund

1. Procedure

On February 4, 2010, the Court's Rules for the Operation of the Victims' Legal Assistance Fund (hereinafter, "the Fund") were issued 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.¹⁶⁸

¹⁶⁸ Cf. The Court's Rules for the Operation of the Fund, article 5.

Once a 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 is 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.¹⁶⁹ 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.¹⁷⁰

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.

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 to the Fund by Colombia. During 2012, based on new cooperation agreements signed with Norway and Denmark, the Court obtained

169 Ibid. article 2.

170 Ibid. article 3.

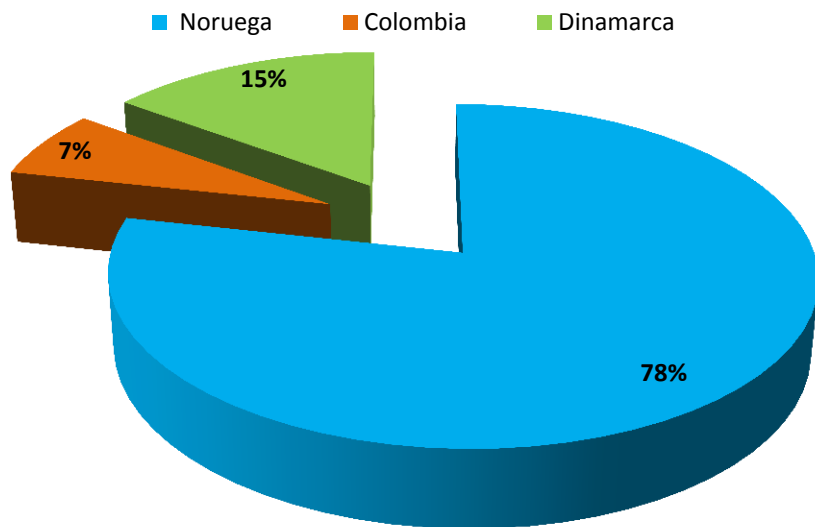
commitments for additional funding for 2013-2015 of US\$65,518.32 and US\$55,072.46 respectively. Finally, for execution of the 2016 budget, the Court received US\$15,000.00 from Norway.

Based on the foregoing, at December 2016, total contributions to the fund amounted to US\$370,590.78.

The list of donor countries to date is as follows:

Contributions or donations to the Fund		
State	Year	Contribution in US \$
Norway	2010-2012	210.000,00
Colombia	2012	25.000,00
Norway	2013	30.363,94
Denmark	2013	5.661,75
Norway	2014	19.621,88
Denmark	2014	30.571,74
Norway	2015	15.532,50
Denmark	2015	18.838,97
Norway	2016	15.000,00
	SUB TOTAL	370.590.78

Inter-American Court of Human Rights
Contributions to the FAV at December 31, 2016
Total: US\$370.590,78



3. Expenses incurred by the Fund

a) Expenses approved in 2016

During 2016, the President of the Inter-American Court of Human Rights issued orders approving access to the Fund in the following cases:

EXPENSES APPROVED IN 2016		
Case	Order	Description of the disbursements covered
Case of I.V. Vs. Bolivia	January 13, 2016	Presentation of a maximum of four statements either at the hearing or by affidavit
Vásquez Durand et al. v. Ecuador	February 3, 2016	Presentation of a maximum of three statements either at the hearing or by affidavit
Acosta et al. v. Nicaragua	June 16, 2016	Presentation of a maximum of three statements either at the hearing or by affidavit
Case of Dismissed Employees of PetroPeru, the Ministry of Education, the Ministry of Economy and Finance and the National Port Authority v. Peru	June 22, 2016	Presentation of a maximum of two statements by presumed victims and one expert opinion, either at the hearing or by affidavit, and appearance of the representative at the public hearing
Lagos del Campo v. Peru	July 14, 2016	Presentation of one statement and one expert opinion either at the hearing or by affidavit
Ramírez Escobar et al. v. Guatemala	October 14, 2016	Presentation of a maximum of four statements either at the hearing or by affidavit

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

b) Expenses approved and respective reimbursements from 2010 to 2016

From 2010 to 2016, access to the Victims' Legal Assistance Fund of the Court has been granted in 51 cases. As established in the Rules of Operation, States are bound to reimburse the Fund's resources that are used when the Court establishes this in the judgment or pertinent order. Accordingly, in 16 cases the respective States have complied with the reimbursement of the Fund. However, in one case the Court did not order the State to reimburse the Fund, because it was not found internationally responsible in the judgment. Also, in 5 of the 51 cases judgment has not yet been delivered, and in two others the time frame for reimbursement has not yet expired. Consequently, compliance with repayment is pending in 27 cases.

VICTIMS' LEGAL ASSISTANCE FUND

Reimbursements made to the fund

	Case	State	Reimbursements	Interest
1	Mendoza et al.	Argentina	3,393.58	967.92
2	Mohamed	Argentina	7,539.42	1,998.30
3	Fornerón and daughter	Argentina	9,046.35	3,075.46
4	Furlán and family members	Argentina	13,547.87	4,213.83
5	Torres Millacura et al.	Argentina	10,043.02	4,286.03
6	Pacheco Tineo Family	Bolivia	9,564.63	0.00
7	Norín Catrimán et al.	Chile	7,652.88	0.00
8	Kichwa Indigenous People of Sarayaku	Ecuador	6,344.62	0.00
9	Suárez Peralta	Ecuador	1,436.00	0.00
10	Contreras et al.	El Salvador	4,131.51	0.00
11	Massacres of El Mozote and nearby places	El Salvador	6,034.36	0.00
12	Rochac Hernández et al.	El Salvador	4,134.29	0.00
13	Veliz Franco et al.	Guatemala	2,117.99	0.00
14	Triunfo de la Cruz Garífuna Community and its members	Honduras	1,662.97	0.00
15	Punta Piedra Garífuna Community and its members	Honduras	8,528.06	0.00
16	Kuna Indigenous Peoples of Madungandí and Emberá Indigenous People of Bayano and	Panama	4,670.21	0.00

their members

SUBTOTAL 99,847.76 14,541.54

TOTAL RECOVERED (EXPENSES AND INTEREST) 114,389.30

VICTIMS' LEGAL ASSISTANCE FUND

Case not obliged to reimburse the fund

Case	Case	Reimbursement
1	Castillo González et al. Vs. Venezuela	2,956.95
TOTAL		2,956.95

VICTIMS' LEGAL ASSISTANCE FUND

Expenses pending reimbursement, by case¹⁷¹ to December 31, 2016

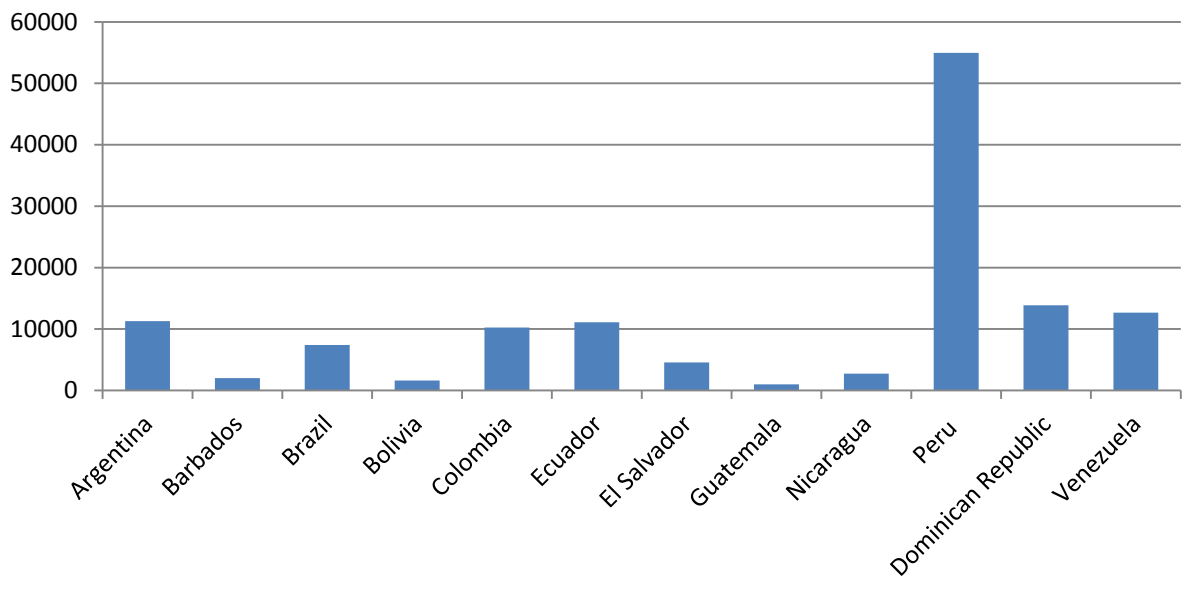
Total No.	State Number	Case	Amount	Day payment was ordered
ARGENTINA				
1	1	Argüelles et al.	7,244.95	November 20, 2014
2	2	Furlan and family members	4,025.58	November 4, 2016
TOTAL			11,270.53	
BARBADOS				
3	1	Dacosta Cadogan and Boyce et al.	1,999.60	No decision issued on reimbursement to date
TOTAL			1,999.60	
BRAZIL				
4	1	Favela Nova Brasília	7,397.51	Judgment pending
TOTAL			7,397.51	
BOLIVIA				

¹⁷¹ At the end of 2016, the term established in the judgment to reimburse the expenses in the cases of I.V. v. Bolivia, Yarce *et al.* v. Colombia, Flore Freire v. Ecuador, Chinchilla Sandoval v. Guatemala, and Pollo Rivera v. Peru had not expired.

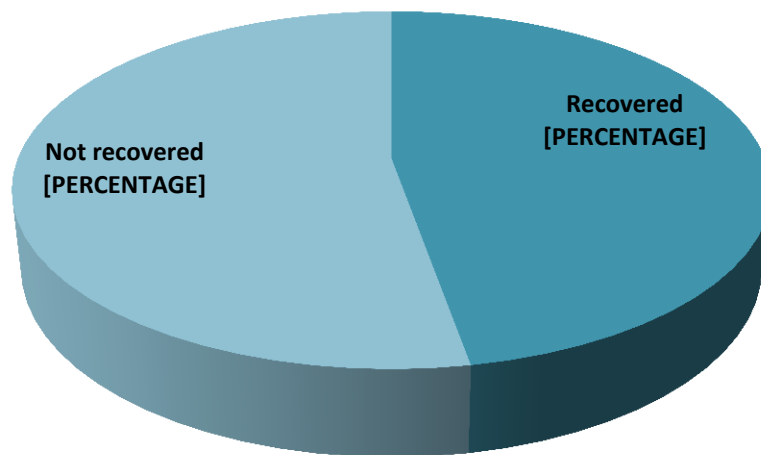
5	1	I.V.	1,623.21	November 30, 2016
TOTAL 1,623.21				
COLOMBIA				
6	1	Vereda la Esperanza v. Colombia	2,892.94	Judgment pending
7	2	Yarce et al.	4,841.06	November 22, 2016
8	3	Duque	2,509.34	February 26, 2016
TOTAL 10,243.34				
ECUADOR				
9	1	Gonzales Lluy et al.	4,649.54	September 1, 2015
10	2	Vásquez Durand	1,674.35	Judgment pending
11	3	Flor Freire	4,788.25	August 31, 2016
TOTAL 11,112.14				
EL SALVADOR				
12	1	Ruano Torres et al.	4,555.62	October 5, 2015
TOTAL 4,555.62				
GUATEMALA				
13	1	Chinchilla Sandoval	993.35	February 29, 2016
TOTAL 993.35				
NICARAGUA				
14	1	Acosta et al.	2,722.99	Judgment pending
TOTAL 2,722.99				
PERU				
15	1	Miguel Castro Castro Prison	2,756.29	March 31, 2014
16	2	J.	3,683.52	November 27, 2013
17	3	Osorio Rivera and family members	3,306.86	November 26, 2013
18	4	Canales Huapaya et al.	15,655.09	June 24, 2015
19	5	Cruz Sánchez et al.	1,685.36	April 17, 2015
20	6	Espinoza Gonzáles	1,972.59	November 20, 2014
21	7	Tarazona Arrieta et al.	2,030.89	October 15, 2014
22	8	Quispialaya Vicalpoma	1,673.00	November 23, 2015
23	9	Santa Bárbara Campesino Community	3,457.40	September 1, 2015

24	10	Zegarra Marín	8,523.10	Judgment pending
25	11	Tenorio Roca	2,133.69	June 22, 2016
26	12	Pollo Rivera	4,330.76	October 21, 2016
27	13	Dismissed Employees of PetroPeru	3,762.54	Judgment pending
TOTAL 54,971.09				
DOMINICAN REPUBLIC				
28	1	González Medina	2,219.48	February 27, 2012
29	2	Nadege Dorzema et al.	5,972.21	October 24, 2012
30	3	Expelled Dominicans and Haitians	5,661.75	August 28, 2014
TOTAL 13,853.44				
VENEZUELA				
31	1	Barrios Family	3,232.16	November 24, 2011
32	2	Uzcátegui et al.	4,833.12	September 3, 2012
33	3	Landaeta Mejías et al.	2,725.17	August 27, 2014
34	4	Barrios Family (monitoring hearing)	1,885.48	February 23, 2016
TOTAL 12,675.93				
TOTAL AMOUNT 133,418.75				

Victim's Legal Assistance Fund Expenses pending of reimbursement by State



Inter-American Court of Human Rights Status of reimbursements to the Fund to December 31, 2016



**Inter-American Court of Human Rights
Victims' Legal Assistance Fund**

Summary of the Fund's activities	
From January 1, 2010, to December 31, 2016	
(in US\$)	
Income	
Contributions:	370,590.78
Disbursements to beneficiaries of the Fund (expenses):	(234,150.76)
Sub-total Income	136,440.02
Other Income	
Reimbursements by the States:	99,847.76
Interest earned on arrears:	14,541.54
Interest earned on bank accounts:	2,210.03
Sub-total Other Income	116,599.33
Non-reimbursable expenses	
Financial administration expenses:	(1,519.29)
**Non-reimbursable expenses:	(670115)
Sub-total Non-reimbursable expenses	(8,220.44)
Balance in the Fund \$	244,818.91

c) Audit of accounts

The Victims' Legal Assistance Fund has been audited by the external auditors of the Inter-American Court, "Venegas and Colegiados, Auditors and Consultants, a member of Nexia International." In this regard, the audited financial statements for the financial exercises ending in December 2010, 2011, 2012, 2013, 2014 and 2015 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 Court. A copy of these reports and of those corresponding to the financial exercise ending in December 2015 have been sent to the General Secretariat of the OAS and to the OAS Office of Audit Services.

B. 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"),¹⁷² 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 in twelve cases and the Court has already delivered judgment in seven of them:

¹⁷² 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.

1. Pacheco Tineo *v.* Bolivia
2. Furlan and family members *v.* Argentina
3. Mohamed *v.* Argentina
4. Argüelles *v.* Argentina
5. Canales Huapaya *v.* Peru, and
6. Ruano Torres and family *v.* El Salvador
7. Pollo Rivera *v.* Peru.

The following cases in which judgment remains pending have also been defended by the mechanism of the Inter-American Defender:

1. Manfred Amhrein *et al.* *v.* Costa Rica;
2. Ortiz Hernández *v.* Venezuela
3. Zegarra Marín *v.* Peru
4. Case of V.R.P. and V.P.C. *v.* Nicaragua, and
5. Poblete Vilches *et al.* *v.* Chile

XI. Dissemination of the Court's case law and activities and use of the new technologies

A. Introduction of the case law handbooks and the case law bulletins

1. Case law handbooks



Since 2015, the Court has been publishing the case law handbooks. The handbooks contain a thematic systematization of the Court's case law in contentious cases, advisory opinions, and provisional measures on the different issues dealt with by the Court. At the end of 2016, 11 case law handbooks had been published on the following topics: the death penalty; migrants; displaced persons; gender; children; enforced disappearance; control of conventionality; personal liberty; persons deprived of

liberty; personal integrity, and indigenous and tribal peoples. These handbooks will be updated periodically as the Court rules on the issues.

The updates will be communicated on the Court's website, and by Twitter and Facebook. The case law handbooks are available [here](#).

2. The Inter-American Court's case law bulletins



In 2015, the Court commenced publication of case law bulletins containing a user-friendly summary of the Court's rulings so that researchers, students, human rights defenders and all those who are interested may read about the Court's work and the human rights standards that it is developing. These case law bulletins are published periodically online in Spanish, English and Portuguese, which allows them to reach more people in the region and throughout the world. At the end of 2016, six editions of this bulletin had been published.

The case law bulletins are published on the Court's website, Twitter and Facebook. They can be accessed [here](#).

3. Digest

The Digest is a new tool to publicize the case law of the Inter-American Court, and it has been conceived as a public document that contains all the legal rulings of the Inter-American Court of Human Rights with regard to a specific article of the American Convention on Human Rights. These rulings are arranged by legal concepts, ranging from the most abstract to the most concrete rulings in light of the corresponding interpretation made by the Inter-American Court.

Its purpose is to facilitate access to the provisions of the American Convention in light of the Court's case law in order to disseminate the contribution made by the Inter-American Court's judgments to a provision of the Convention. Each Digest has a table of contents and the sources are cited in the footnotes. At present, Digests have been prepared for Articles 1, 2, 8 and 25 of the American Convention on Human Rights, which are the most relevant to the legal concept of access to justice.

This tool is at the experimental stage in order for different users to take advantage of it, evaluate it, and give us their comments and suggestions, which will be taken

into account when preparing the final version. We take advantage of the opportunity to express our appreciation for all the comments and suggestions.

The Digest is a joint effort of the legal area of the Inter-American Court and the Program of Regional Law and Access to Justice in Latin America (DIRAJus) of the German cooperation agency: GIZ (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung/Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH). This cooperation is based on an agreement between the Organization of American States (OAS) and the German Government on the promotion of access to justice in Latin America.

The Digest can be found [here](#).

B. Management of information and knowledge

1. Website

The Inter-American Court's website provides access to information and knowledge produced by the Court with the immediacy provided by the new technologies. The website contains all the Court's case law, as well as other judicial actions ordered by the Court, and its academic and official activities.

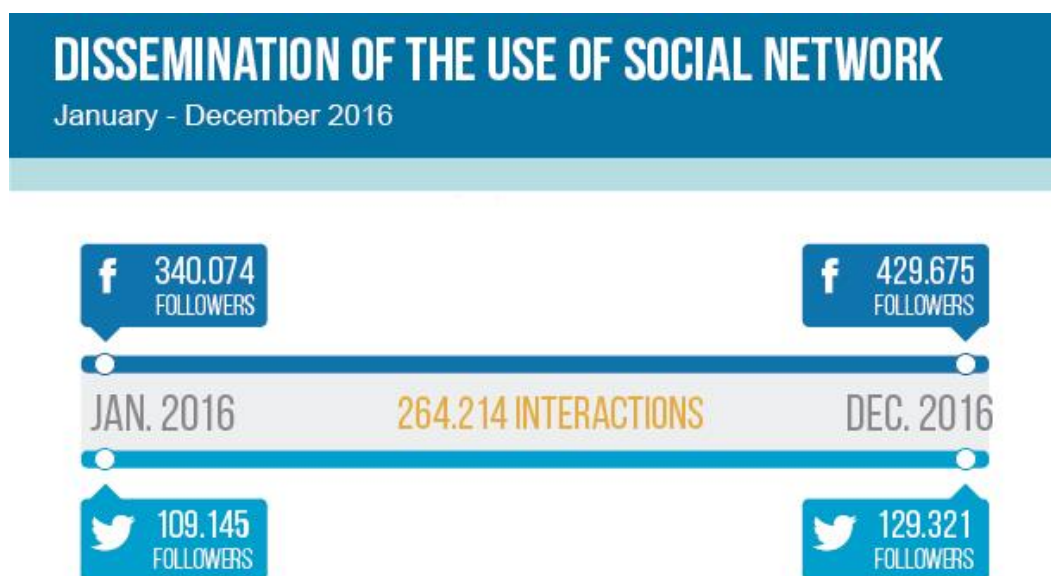
During 2016, via its website, the Inter-American Court offered live transmissions of the public hearings and of diverse academic and official activities at its seat in San José, Costa Rica, and also, during the fifty-fourth and fifty-fifth special sessions held in Mexico City and Quito, respectively.

The videos and photographs of the public hearings, and academic and official activities are available in the [multimedia gallery](#).

2. Social networks

In addition, the Court uses social networking to disseminate its activities and this allows the Court 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 increased considerably over the last year; thus, a total of 429.675 interactions were recorded on the Court's Facebook from January to December 2016. These numbers reveal that the public has considerable interest in learning about and sharing the content of the Court's messages. These messages relate to all the Court's different activities, including press releases, judgments, and orders, live transmission of hearings, and academic activities.



3. Archives

It is worth noting that the Court uses digital means to process the cases under its jurisdiction, and has continued to upload all the files on the cases in which it has delivered judgment. The digital files are available on the Court's website for all those who are interested.

4. Library

Created in 1981, the Inter-American Court Library provides information services to the Inter-American Court of Human Rights and to national and international researchers who visit it each day, and also through virtual channels. The Library has a wide-ranging content specialized in public international law, international human rights law, and international humanitarian law.

Services to the public are provided both on site and also through virtual channels, either on the website by using the online access to the catalogue, by using the chat function on the internet to obtain answers to consultations in real time, or by using WhatsApp or Skype to contact the Library.

Since it is the Inter-American Court's information center, it provides services to the Court and its officials for the processing of case files, their conservation, and the management, archive and dissemination of audiovisual material resulting from the Court's hearings and academic activities.

XII. Other activities of the Court

A. Dialogue with international courts

1. European Court of Human Rights

The Court has a cordial and productive relationship with its European counterpart, the European Court of Human Rights. The President of the Court, Judge Roberto Caldas, visited Strasbourg to meet with the President of the ECHR on December 5, 2016. Also, the President of the Third Section of the ECHR, Luis López Guerra, attended the inauguration of the Inter-American Court's 2016 judicial year on February 15, 2016.

The exchange program with the European Court of Human Rights continued in 2016, based on an agreement signed by the two courts. Under the program one lawyer from each international organ makes a professional visit for several months to conduct research in order to obtain a better understanding of the two regional systems and to encourage continuing collaboration between the two courts. The Court designated the coordination lawyer, Jorge Calderón, to take part in this exchange, while the European Court was represented by the lawyer, Natalia Kobylarz. The two lawyers incorporated work teams and proceedings of the respective court, and undertook activities to disseminate the main procedural aspects of the management and processing of cases, as well as case law and doctrine. These exchanges also help identify a series of best procedural practices that can be incorporated into the daily tasks of the two courts.

2. International Criminal Court

During the inauguration of the Inter-American Court's 2016 judicial year on February 15, 2016, the President of the Inter-American Court and the President of the International Criminal Court, Silvia Fernández, signed a memorandum of understanding in order to enhance cooperation between the two courts. The memorandum defines the terms for mutual cooperation by an exchange of the knowledge and experience acquired in the course of their mandates. In addition, the two courts undertook to keep in contact by an exchange of visits, cooperation

with regard to temporary personnel mobility, holding meetings on matters of mutual interest, and establishing the means required to facilitate effective cooperation.

Under this agreement, in November, officials of the two courts took part in a video-conference in which they discussed relevant issues pertaining to international criminal law, human rights law, and humanitarian law.

Furthermore, Judge Elizabeth Odio Benito participated in the official inauguration of the new facility of the International Criminal Court on April 19, 2016. This was also attended by King Willem-Alexander of the Netherlands, the President of the International Criminal Court, Silvia Fernandez, and the United Nations Secretary-General, Ban Ki-moon.



3. African Court of Human and Peoples' Rights

During the international seminar on "Significant achievements and perspectives of the Inter-American Court of Human Rights in a global world," held on February 15, the Inter-American Court, represented by its President, signed a cooperation agreement with the African Court of Human and Peoples' Rights to define the terms of cooperation between the two Courts.



4. Court of Justice of the Andean Community

During the special session held in Ecuador, Judge Roberto F. Caldas visited the seat of the Court of Justice of the Andean Community where he met with several of the judges. During discussions, the importance of opportunities for convergence in the area of human rights between the inter-American system and the Andean integration system was underscored, as well as the possibility of a future agreement between the two courts.



B. Dialogue with national courts

1. Supreme Court of Justice of the Nation, Mexico

During the dialogue that preceded the fifty-fifth special session, and in order to organize details of the session, the President, Vice President and Secretary of the Court met with Judge Luis María Aguilar Morales, President of the Supreme Court of Justice of the Nation. Also, on August 27, during the fifty-fifth special session the Plenums of the Inter-American Court and the Supreme Court of Justice of the Nation met in order to assess the session and discuss increased collaboration between the two courts.



2. Constitutional Court of Ecuador

On October 11, 2016, during the fifty-sixth special session, the Plenum of the Inter-American Court was received by the Plenum of the Ecuadorian Constitutional Court. The Presidents of the two Courts underlined the excellent relations between the two organs, and the need to continue promoting cooperation between national and international courts.



3. National Court of Justice of Ecuador

On October 13, the President of the Court and the President of the National Court Nacional of Justice of Ecuador, Carlos Ramírez, signed a cooperation agreements between the two courts. The two Presidents undertook to implement jointly juridical activities and research, exchange case law and information, reinforce contacts, and facilitate mutual access to legal databases.

4. Judiciary Council of Ecuador

During the fifty-sixth special session, on October 13 and 14, the President of the Court met with the President of the Judiciary Council, Gustavo Jalkh. The meeting was also attended by officials from the different departments of the Judiciary Council that have an impact on the structure of the policies developed by the judicial function in Ecuador.



5. Supreme Court of Justice of Panama

The President of the Court met with the President and the justices of the Supreme Court of Justice of Panama. During the meeting held on June 27, details were finalized for the upcoming signature of a cooperation agreement that includes a budgetary allocation for the Inter-American Court. Also, during a stopover in Panama on the return from the fifty-sixth special session in Ecuador, a short but productive meeting was held with the President of the Supreme Court of Panama during which an initial agreement was signed in order to arrange the corresponding budget allocation. Lastly, the President of the Supreme Court of Panama was received by the Plenum of the Court on October 21 in order to sign the formal Agreement.

6. Supreme Court of Justice of Uruguay

On June 4, 2016, during the international seminar on criminal procedural reform, the President of the Court took advantage of the occasion to meet with the President of the Supreme Court of Uruguay, Ricardo C. Pérez Manrique. They discussed increasing cooperation between the two courts, as well as the need to

augment dialogue on case law among the national high courts and the Inter-American Court.

7. Ibero-American Judicial Summit and Meeting of President of national high courts

From April 11, to 15, the President of the Court took part in the XVII Ibero-American Judicial Summit in Asunción, Paraguay. A substantial contribution made by the 2016 summit was the approval of the use of language that was “clear and accessible in judgments and judicial documents.” The President also participated in the Ibero-American Conference on Constitutional Justice held from June 28 to July 1, and attended by presidents and judges of the constitutional courts, tribunals and chambers of Ibero-America. During this conference, Judge Caldas acted as moderator of the panel entitled “Constitutional principles that govern the economic constitution,” composed of Carlos Ramos Núñez, Justice of the Constitutional Court of Peru; José Luis Sardón de Taboada, Justice of the Constitutional Court of Peru; Francisco Rosales Arguello, of the Supreme Court of Nicaragua, and Pamela Martínez, Vice President of the Constitutional Court of Ecuador.

8. Annual Meeting of Presidents of Latin American High Courts

From June 16 to 18, the President, Judge Roberto F. Caldas, the Vice President, Judge Eduardo Ferrer Mac-Gregor, and Judge Humberto Sierra Porto took part in the Annual Meeting of Presidents of Latin American high courts organized by the Konrad Adenauer Foundation and the Supreme Court of Justice of the Nation of Mexico. The President of the Court made a presentation on the “Language and communication of judgments” during this meeting.

9. Subcommittee for Latin America of the European Commission for Democracy through Law (Venice Commission)

The President of the Court, Judge Roberto F. Caldas, attended the meeting of the Subcommittee for Latin America of the European Commission for Democracy through Law (Venice Commission) held in Lima, Peru, on October 24 and 25. The meeting was also attended by the presidents of the high courts of Latin America. During the meeting a conference was held organized by the Constitutional Court of Peru entitled "Constitutional reform and democratic stability: the function of the constitutional courts." The President participated in the conference with a presentation on monitoring compliance with the judgments of the Inter-American Court, and moderated the panel on "Political parties and civil society."

10. Constitutional Court of Korea

The President of the Court, Judge Roberto F. Caldas visited South Korea in July in order to meet with Park Han-Chul, President of that country's Constitutional Court. During the visit the two Presidents undertook to continue a dialogue on judicial matters and to establish a cooperation project in the context of the creation of a human rights court on the Asian continent. On that occasion, Judge Roberto Caldas took part in a seminar in which he described the functioning of the Inter-American Court over the 37 years of its existence.

C. Dialogue with the Organization of American States

1. Presentation of the 2015 Annual Report to the OAS General Assembly

On June 15, the President of the Court presented the Court's Annual Report to the OAS General Assembly. At that time, he emphasized the precarious budgetary situation that the Inter-American Court was experiencing and urged that, by 2018,

the definitive bases should have been established to provide the American continent with a court with full-time judges, an adequately structured secretariat, and a system duly strengthened in light of current realities.

2. Secretary General of the Organization of American States

The OAS Secretary General, Luis Almagro Lemes, took part in the inaugural ceremony of the Court's judicial year, at which time the President of the Inter-American Court stressed that the Court was seeking to "increase dialogue with civil society and its representatives, as well as with the States and their institutions, national and international courts, and academia." In addition, during the inauguration, the full Court met with Mr. Almagro at the seat of the Court in order to discuss the challenges faced by the Inter-American Court, and also the general situation of human rights in the Americas.

Also, in August, the Plenums of the Court and the Inter-American Commission met with the Secretary General in order to discuss, among other matters, the grave budgetary situation and the urgent need to ensure predictable funding that would guarantee the efficient functioning of the two organs so that they could fulfill their mandates.

D. Dialogue with the United Nations

1. Human Rights Council and High Commissioner for Human Rights

On October 4, the President met with the President of the Human Rights Council, Choi Kyong-lim, and with the High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, at the Palais des Nations in Geneva, Switzerland. The meetings were held during the Fifth International Workshop of Regional Arrangements for the Promotion and Protection of Human Rights at which participants discussed the establishment of channels for dialogue and collaboration between the Inter-American Court and the United Nations human rights agencies. The President also

informed the United Nations authorities of the financial difficulties faced by the inter-American system and the joint proposal that the Commission and the Court had submitted to the OAS Secretary General.

2. Human Rights Committee

On November 18, a meeting was held with the Human Rights Committee. This was the first meeting of this type in order to discuss increased dialogue and collaboration between the two institutions, as well as to share legal opinions and information on international standards. Judges Roberto F. Caldas, Humberto Sierra Porto, Elizabeth Odio Benito and Patricio Pazmiño, attended the meeting, together with the Court's Secretary Pablo Saavedra, Deputy Secretary Emilia Segares Rodriguez, General Counsel Alexei Julio, and two lawyers. The Committee was represented by its members Fabián Salvioli, Sarah Cleveland, Fay Pazartzis, Mauro Politi, Victor Rodriguez-Rescia and Yuval Shany.



3. Office of the United Nations High Commissioner for Human Rights

On April 12, the Office of the United Nations High Commissioner for Human Rights, the Inter-American Commission, and the Inter-American Court of Human Rights organized a regional consultation on “Strengthening cooperation between mechanisms of the United Nations, the Inter-American Commission and Court of Human Rights, human rights defenders and civil society in the Americas,” at the seat of the IACHR in Washington D.C. The purpose of the consultation was to increase cooperation between the United Nations and the inter-American human rights system, with special emphasis on interaction with human rights defenders and civil society.

The event was attended by the President of the Inter-American Commission on Human Rights, James Cavallaro; the Vice President of the Inter-American Court of Human Rights, Eduardo Ferrer Mac-Gregor Poisot; the UN Assistant Secretary-General for Human Rights, Ivan Šimonović; the member of the UN Committee against Torture, Claudio Grossman; the UN Special Rapporteur on torture, Juan Méndez; the UN Special Rapporteur on the independence of judges and lawyers, Mónica Pinto; the UN Special Rapporteur on the situation human rights defenders, Michel Forst; and a member of the UN Working Group on Enforced or Involuntary Disappearances, Ariel Dulitzky.

4. UNESCO

On December 7, 2016, the President met with Irina Bokova, Director General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its seat in Paris, France in order to discuss opportunities for dialogue and cooperation between the two organizations.

5. UN Women

On August 27, 2016, during the fifty-fifth special session held in Mexico City, the President of the Court, Roberto F. Caldas, the Vice President, Judge Eduardo Ferrer Mac-Gregor Poisot, and Judge Elizabeth Odio Benito made a formal statement in the context of the United Nations “HeForShe” campaign in which they undertook to

promote efforts to disseminate the Court's case law on gender issues and to maintain the gender equality that exists at the Secretariat of the Inter-American Court.



E. Dialogue with Heads of State

1. Pope Francisco

Judge Roberto F. Caldas had the opportunity to meet Pope Francisco in order to discuss human rights and international environmental law in the context of the *Encíclica Laudato Si*, promulgated in June 2015, which focused on Planet Earth as a place where men live in harmony with nature. The meeting was held during the first meeting of "America in Dialogue: our common home", a platform for inclusive, interreligious and intercultural dialogue in the Americas, held in Vatican City on September 7 and 8, 2016.



2. President of the Republic of Chile

On April 11, 2016, the President of the Inter-American Court, Judge Roberto F. Caldas, met with President Michelle Bachelet in order to discuss the financial challenges that the Court was experiencing, as well as the situation of human rights in the region.



3. President of the Republic of Costa Rica

On February 15, 2016, the President of the Republic of Costa Rica, Luis Guillermo Solís, met with the Plenum of the Inter-American Court at the seat of the Court. On that occasion, a discussion was held on the challenges faced by the Inter-American Court, as well as the importance of the seat of the Court being in Costa Rica. President Solís also took part in the ceremony to inaugurate the 2016 judicial year and addressed participants.



4. President of the Republic of Ecuador

On October 12, 2016, the Plenum of the Inter-American Court met with the President of Ecuador, Rafael Correa Delgado, at the Carondelet Palace, the official seat of government. During the meeting, the Court expressed its appreciation for the invitation issued by the President of the Republic to hold a session in Ecuador. The President of Ecuador highlighted the importance of the Court and its impact on the defense and promotion of human rights in the Americas. In addition to President Correa, the State of Ecuador was represented at the meeting by the Minister of Foreign Affairs, Guillaume Long; the Minister of Justice, Human Rights and Worship, Ledy Zúñiga, and the Legal Secretary of the Presidency, Alexis Mera.



5. President of the United Mexican States

On August 31, the Plenum of the Court met with the President of Mexico, Enrique Peña Nieto, at the official residence of the Mexican leader. Among other issues, those present discussed the situation of human rights in Mexico, particularly their evolution, regulation and interpretation in case law.



6. Vice President of the Republic of Panama

On June 27, Judge Caldas met with the Vice President and Minister of Foreign Affairs of Panama, Isabel Saint-Malo. During the meeting, the upcoming special session to be held in Panama was discussed, and also the possibility that Panama could make a financial contribution to the Court.

F. Dialogue with international agencies and organizations

1. European Commission for Democracy through Law (Venice Commission)

The President of the Court took part in the 107th plenary meeting of the European Commission for Democracy through Law, known as the Venice Commission, held in Venice on June 10 and 11. On that occasion, the President spoke on the relationship between democracy and human rights, political rights, and due process in political trials or impeachments, and the importance of respect for the right to

privacy in private conversations in the course of investigations carried out by State authorities.

The President also referred to the Court's budgetary situation, to which the Venice Commission responded by urging its members to provide support to the Inter-American Court to allow it to overcome its financial difficulties. As a result of his participation, the Venice Commission urged its Member States to identify ways to cooperate with the Inter-American Court.

Similarly, in December, the President took part in the 109th plenary meeting of the European Commission for Democracy through Law during which he stressed that the Venice Commission provided not only a unique opportunity to reflect on progress, but, above all, an important space to discuss future priorities and strategies, in which the international and constitutional courts united to promote human rights as the basis for and center of the implementation of democracy.

2. Union of South American Nations

On May 4, the Plenum of the Inter-American Court received a visit from the Secretary General of the Union of South American Nations (UNASUR), Ernesto Samper, and the Colombian Ambassador to UNASUR, Luz Stella Jara. Discussions were held on the challenges faced by the Inter-American Court and the importance of the dialogue between the Court and UNASUR. The UNASUR Secretary General gave a talk on "UNASUR: human rights and integration."

3. Senior MERCOSUR Human Rights Authorities

The President took part in the meeting of Senior MERCOSUR Human Rights Authorities (RAADDH), held in May. His presentation focused on the Court's budgetary situation, in response to which RAADDH adopted, by consensus, "an undertaking to seek solutions for the situation of the Inter-American Commission and Court."

4. International Committee of the Red Cross

The Inter-American Court met with the regional representative for Mexico, Central America and Cuba of the International Committee of the Red Cross (ICRC), in order to discuss existing collaboration and the possibility of increasing this, as well as issues relating to international human rights law and international humanitarian law.

5. Konrad Adenauer Foundation

November 30, the full Court received Christian Steiner, the outgoing Director of the Konrad Adenauer Foundation's Rule of Law Program for Latin American, together with the new Director, Marie-Christine Fuchs.

G. Dialogue with national authorities

1. Ministries of Foreign Affairs and of Justice of Argentina

On May 27, the President met with the Argentine Minister for Foreign Affairs, Susana Mabel Malcorra, in Buenos Aires, Argentina, in order to discuss the communiqué issued by Argentina in support of the inter-American human rights system and, in particular, the Inter-American Court. The budgetary challenges faced by the Court and the possibilities of increased collaboration between Argentina and the Court were also discussed. Then, on November 29, the Court hosted a delegation from the Ministries of Foreign Affairs and of Justice of Argentina, composed of Leandro Despouy, Javier Salgado and Siro de Martini.

2. Ministry of Foreign Affairs and Secretariat of the Presidency of Uruguay

The Minister for Foreign Affairs of the Republic of Uruguay, Rodolfo Nin Nova, and the Secretary of the Presidency, Miguel A. Toma, received Judge Caldas in

Montevideo, Uruguay, on June 3, in order to discuss the challenges facing the Inter-American Court and relations between Uruguay and the Court.

3. Deputy Minister for Foreign Affairs of Norway

On October 20, the full Court received the Norwegian Deputy Minister for Foreign Affairs at the seat of the Inter-American Court in order to discuss possibilities for cooperation between the Government of Norway and the Inter-American Court. During the meeting, the Court expressed its appreciation for Norway's past support and the decision to continue supporting the Court, after it had announced its withdrawal at the end of 2015. In this regard, an international agreement was signed under which the Kingdom of Norway will continue to provide financial support to the Inter-American Court.

4. German Parliament

The Vice President of the *Bundestag*, Edelgard Bulmahn, together with a parliamentary delegation were received at the seat of the Court. During the visit, discussions were held with Judge Elizabeth Odio, Secretariat officials, and members of the Access to Justice Project (DIRAJus) of the German International Cooperation Agency (GIZ). The close ties between GIZ and the Inter-American Court were highlighted, as well as the importance of continuing the technical cooperation that the German Government provides to the Court.

5. Austrian Parliament

On October 18, the President of the Court, Judge Roberto F. Caldas, and the Vice President, Eduardo Ferrer Mac-Gregor Poisot, received a parliamentary delegation from Austria, in order to discuss the impact of the Inter-American Court's decisions in the region, as well as the challenges face by human right throughout the world.

6. Federal Public Prosecution Office of Brazil

The President of the Inter-American Court of Human Rights, Judge Roberto F. Caldas, and the Prosecutor General of the Republic of Brazil, Rodrigo Janot, signed an institutional cooperation agreement between the Court and the Federal Public Prosecution Service of Brazil. The agreement, signed on June 6, was aimed at promoting technical exchanges and the training of collaborators, as well as at carrying out other activities of mutual interest.

7. Mexican State authorities prior to the fifty-fifth special session in Mexico

On May 16 and 17, the Court's President, Vice President and Secretary visited various Mexican State authorities in order to discuss the fifty-fifth special session to be held in Mexico as well as the budgetary situation of the Court. On that occasion, they met with the Claudia Ruiz Massieu, Minister for Foreign Affairs, Arely Gómez González, Attorney General, Luis Raúl González Pérez, President of the National Human Rights Commission, and Miguel Ángel Osorio Chong, Interior Minister.

8. Mexican Senate

During the fifty-fifth special session, the full Court visited the Senate of the Republic of Mexico in order to hold conversations on opportunities for dialogue between the Inter-American Court and the national legislatures. During the meeting, the importance of adopting legislative measures that ensured the financing of the Inter-American Court by the States was discussed.

9. Attorney General of the Republic of Mexico

On August 23, the President Judge Roberto F. Caldas and the Attorney General of the Republic, Arely Gómez González, signed an agreement on training on international human rights law. Among other matters, the agreement establishes the coordination of efforts to strengthen the professionalization, promotion and defense of human rights in the office of the Federal Attorney General, and also the

organization of congresses, seminars and forums, and the development and implementation of projects, research, programs and professional visits.

Vice President, Eduardo Ferrer Mac-Gregor Poisot, Judge Elizabeth Odio Benito, Judge L. Patricio Pazmiño Freire and Secretary Pablo Saavedra Alessandri were present for the signature of the agreement. While, the Deputy Attorney General for Legal and International Affairs, Salvador Sandoval Silva; the Deputy Attorney General for the Investigation of Federal Offense, José Guadalupe Medina Romero; the Deputy Attorney General for Human Rights, Crime Prevention and Community Services, Eber Omar Betanzos Torres, and the Director General for Human Rights and Democracy of the Mexican Ministry of Foreign Affairs, Erasmo Lara Cabrera, represented the Mexican State.

10. National Human Rights Commission of Mexico

On September 2, the full Court, together with its Secretary Pablo Saavedra Alessandri and Deputy Secretary Emilia Segares Rodríguez, met with the inspector generals of the Mexican National Human Rights Commission (CNDH) and several officials from this agency in order to exchange ideas and experiences concerning the implementation of the international human rights standards established by the Inter-American Court. On the basis of the existing cooperation agreement signed by the Inter-American Court and the CNDH, judges and officials from the Court imparted a training course on international standards to CNDH officials; see below: Academic activities.

11. Ecuadorian State authorities prior to the fifty-sixth special session in Ecuador

Prior to the fifty-sixth special session in Ecuador and in order to coordinate its organization, on October 15, the President of the Court and Judge Pazmiño Freire took part in a working breakfast with the Ecuadorian Minister of Justice, Ledy Zuñiga; the President of the Judicial Council, Gustavo Jalkh; the President of the Constitutional Court of Justice, Alfredo Ruiz Guzmán; the President of the National Court, Carlos Ramírez, and other national authorities. During the meeting logistic

details were finalized and the President of the Court had the opportunity to thank the Minister of Justice and, through her, the President of the Republic of Ecuador, Rafael Correa, for the invitation to hold this session in Ecuador.

12. National Assembly of Ecuador

On October 13, during the fifty-sixth special session, the President of the Inter-American Court visited the National Assembly of Ecuador, where he met with its President, Gabriela Rivadeneira. The purpose of the meeting was to discuss possibilities for dialogue between the Inter-American Court and national legislatures. During the meeting, the importance of adopting legislative measures to ensure the financing of the Inter-American Court by the States was discussed. In addition, the President of the Court, Roberto F. Caldas, and the President of the National Assembly, Gabriela Rivadeneira, signed a cooperation agreement by which the Court and the Ecuadorian Legislature agreed to reinforce their ties and coordinate efforts to disseminate, defend and implement the protection of human rights.

13. Panamanian Ombudsman

August 2015, the Panamanian Ombudsman, Alfredo Castellero Hoyos, and the National Director of International Relations, Victor Atencio, visited the seat of the Court where they met with Inter-American Court officials to discuss collaboration to implement reparations pending compliance in cases involving Panama.

14. Signature of the peace agreement in Colombia

On October 27, the President of the Court, Judge Roberto F. Caldas; the Vice President, Judge Eduardo Ferrer Mac-Gregor; Judge Humberto Sierra, and the Secretary, Pablo Saavedra Alessandri, attended the signature of the peace agreement in Cartagena, Colombia. The President of the Court underlined the importance of peace as a necessary condition for the realization of human rights. During the visit, the group held meetings with the former United Nations Secretary-General, and with the United Nations High Commissioner for Human Rights.

15. Visit to “ground zero” in Ecuador

On October 16, taking advantage of their presence in Ecuador, Judge Roberto F. Caldas and Judge Patricio Pazmiño visited Portoviejo and Mantas exactly five months after the devastating earthquake that resulted in the loss of hundreds of lives and numerous injuries. Accompanied by the Minister of Justice, Ledy Zuñiga, and the Secretary of the Reconstruction and Reactivation Committee, Carlos Bernal, as well as other Ecuadorian authorities involved in attending to victims and in reconstruction, the judges of the Inter-American Court walked through the so-called “ground zero.”

H. Training and dissemination activities

Throughout 2016, the Court organized a series of training and dissemination activities on human rights in order to expand understanding of the mandate, functioning and achievements of the Court and the inter-American human rights system. These activities are described below.

1. Seminars, conferences and training courses

From February 15 to 17, in the context of the inauguration of the 2016 inter-American judicial year, the Court organized a seminar entitled “Significant achievements and perspectives of the Inter-American Court of Human Rights in a global world,” at the Costa Rican Lawyers’ Professional Association. The seminar dealt with the challenges inherent in globalization faced by courts, the experiences of national high courts in the control of conventionality and dialogue on case law, and the impact of the Inter-American Court’s case law on domestic law.

On April 12, during his visit to Paraguay, the President took part in the Workshop of the Ibero-American Judicial Schools and Training Centers for Judges on the protection and promotion of freedom of expression, access to information, transparency and the safety of journalists. During the workshop, he made a presentation to 25 directors of judicial schools from throughout the region on “The perspective of human rights, judicial dialogue, and conventionality control in a judge’s training.”

The same day, the President participated in the seminar on "Freedom of expression and access to public information: inter-American standards and challenges for Judiciaries" attended by Paraguayan justices, prosecutors and public defenders. His presentation related to "Standards for freedom of expression, defense of democracy, the role of journalists, and access to information in the hands of the State."

On May 7 and 8, as part of a visit of a delegation from the Court to Brazil for the on-site procedures in the case of *the Workers of Hacienda Brasil Verde v. Brazil*, the President of the Inter-American Court inaugurated a seminar, which was attended by the President of the Federal Supreme Court, Ricardo Lewandowski, the Director of the Rule of Law program of the Konrad Adenauer Foundation, Marie Cristine Fuchs, the Court Judges Eduardo Ferrer, Raul Zaffaroni and Patricio Pazmiño, and Secretary Pablo Saavedra.

On June 4, in the course of his visit to Uruguay and during an international seminar on the reform of criminal procedure, the President of the Court made a presentation entitled "Towards a culture of human rights in criminal proceedings: the guarantees of due process as the fundamental pillar of the proceedings."

On July 18 and 19, the President and the Vice President of the Court, together with the Secretary, took part in the international seminar on "Impact and challenges of monitoring compliance with the judgments of the regional human rights courts" organized by the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany. The Inter-American Court, through its President, was given the opportunity of inaugurating and closing the seminar.

On August 19, during the fifty-fifth special session, itinerant seminars were held in different locations in Mexico. The judges of the Inter-American Court, Mexican judicial authorities, and international expert in international human rights law took part in these seminars.

On August 26, the Court organized a seminar on "National and international law: shared challenges" in Mexico City. More than 1,200 people attended the event, including judges of the Court, Mexican judicial authorities and public officials, and also international experts.

From August 27 to September 11, the judges and several Secretariat lawyers took part in the "Hector Fix-Zamudio" diploma course on the inter-American system, at the Universidad Autónoma de Mexico (UNAM).

On August 30, a discussion was held between the Inter-American Court and the Mexican Federation of Public Human Rights Agencies (FMOPDH) in order to share experiences and exchange legal opinions on how to incorporate the international standards established in the Inter-American Court's case law into the daily tasks of the ombudspersons.

From September 21 to 23, Judges Humberto Antonio Sierra Porto and Eduardo Ferrer Mac-Gregor, together with lawyers from the Court's Secretariat, imparted the "Training course for the promotion and defense of human rights in Mexico." The course was a joint effort of the National Human Rights Commission and the Inter-American Court of Human Rights, and its purpose was to inform the personnel of public human rights agencies in Mexico of the human rights standards developed within the inter-American human rights system; for example, as regards the rights of migrants and refugees, indigenous and tribal peoples, labor and social security, and conventionality control.

On October 14, the Court organized an international seminar on "The case law of the Inter-American Court and its impact in Latin America," in collaboration with the Ministry of Justice, Human Rights and Worship, and the Constitutional Court of Ecuador in Quito and Guayaquil. More than 1,400 persons attended the events.

On October 16, the President gave a presentation on "The impact of the case law of the Inter-American Court of Human Rights in Latin America," at the Instituto de Altos Estudios Nacionales in Ecuador.

On November 10, lawyers from the Inter-American Court's Secretariat imparted a training course on "Introduction to human rights and the international systems for the protection of human rights," to officials from the national system of the United Nations in Costa Rica and the Office of the Costa Rican Ombudsperson.

On December 3, Judge Roberto Caldas was present at the Latin American Conference of Investigative Journalism (COLPIN 2016), during which he formed part of the panel on "The Press and the law" during which journalists and jurists discussed the specific problem of journalism and the courts.

On December 5, the President of the Court took part in a seminar organized by the Committee on Bioethics of the Council of Europe, during which he gave a talk on the Court's case law on bioethical issues. During this talk, he explained how the Court had included reproductive rights within the gender perspective, referring to the Court's first decision on this issue, the *case of Artavia Murillo v. Costa Rica*, in which it examined the legality of the procedure of *in vitro* fertilization, a technique in which eggs fertilized in the laboratory are implanted in a woman's uterus.

In Chile, from December 5 to 7, the Inter-American Court, represented by the Secretary, Pablo Saavedra, and a Secretariat lawyer, imparted a course for human rights defenders on "Litigation before the Inter-American Court of Human Rights: inter-American defenders."

2. Program of Professional Visits and Internships

An essential element of the strengthening of the regional system is training the human capital that, in future, will be working in the area of human rights. This includes, among others, the training of future human rights defenders, public servants, members of the legislature, agents of justice, academics, and members of civil society. Consequently, 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 and similar disciplines, the opportunity to gain experience at the seat of the Inter-American Court of Human Rights, carrying out international judicial tasks, as part of a working group in the legal area of the Inter-American Court's Secretariat.

Among other functions, the work consists in researching human rights issues, writing legal reports, analyzing international human rights case law, collaborating in the processing of contentious cases, advisory opinions and provisional measures, and the monitoring of compliance with the Court's judgments, and providing logistic assistance during public hearings.

Owing to the large number of applicants, selection is very competitive. 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 391 interns of 38 nationalities, in particular, academics, public servants, law students, and human rights defenders.

In particular, during 2016, the Court received at its seat 69 interns and visiting professionals from the following 19 countries: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, France, Guatemala, Honduras, Mexico, Netherlands, Norway, 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 can be found [here](#).

PROGRAM OF INTERNSHIPS AND PROFESSIONAL VISITS

Period 2005-2015

 **635** Interns or visitors

 **43** Countries of 4 different continents



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Germany	1	2	0	1	1	2	0	1	0	2	1
Andorra	0	0	0	0	0	0	0	0	0	0	1
Argentina	6	2	2	9	2	8	6	4	6	5	55
Austria	0	2	0	0	1	0	0	0	0	0	0
Bolivia	0	0	0	1	1	1	0	1	0	0	1
Brazil	1	2	5	4	6	5	4	1	1	3	3
Canada	0	1	3	1	0	1	1	0	0	1	2
Colombia	3	4	6	5	6	8	7	9	8	9	8
South Korea	0	0	0	1	0	0	1	0	0	0	0
Costa Rica	0	1	1	1	0	1	4	4	1	2	5
Chile	2	0	2	4	1	3	2	2	4	3	4
Cuba	0	0	0	1	0	0	0	0	0	0	0
Ecuador	0	1	0	1	2	1	1	2	3	5	4
El Salvador	0	0	0	1	1	0	0	0	0	0	0
Scotland	0	0	0	0	0	0	0	1	0	0	0
Spain	0	1	0	2	5	1	2	0	4	3	3
United States	14	3	16	4	5	13	5	11	6	7	3
France	1	0	2	2	4	3	1	2	5	1	1
Greece	0	0	0	0	0	1	0	0	0	0	0
Guatemala	0	0	0	0	0	0	1	2	1	0	1
Haiti	0	0	1	0	0	0	1	0	0	0	0
Holland	0	0	0	0	1	0	1	0	0	0	0

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Honduras	0	0	0	1	0	0	1	0	1	0	0
England	0	0	0	0	0	0	1	1	1	0	2
Israel	0	0	1	0	0	0	0	0	0	0	0
Ireland	0	0	0	0	0	0	0	0	0	0	1
Italy	1	2	0	0	1	1	2	2	1	0	2
Jamaica	0	0	0	0	1	0	1	0	0	0	0
Kenya	0	0	0	0	0	0	0	0	0	1	0
Mexico	3	3	9	8	13	12	9	9	12	18	23
Nicaragua	1	0	0	0	0	0	0	0	0	0	0
Norway	0	0	0	0	0	0	1	0	0	0	0
Panama	0	0	1	0	1	0	0	1	0	0	0
Paraguay	0	1	2	0	0	0	0	0	0	0	1
Peru	2	1	5	1	1	5	8	3	1	1	1
Poland	0	0	0	0	0	1	0	0	0	0	0
Portugal	2	0	1	0	1	0	0	0	0	0	0
Puerto Rico	0	0	0	3	0	0	0	0	0	1	0
Dominican Republic	0	0	0	3	4	2	2	2	4	0	0
Switzerland	2	0	0	0	0	0	0	0	1	0	1
Greece	0	2	0	0	0	0	0	0	0	0	1
Trinidad and Tobago	0	2	0	0	0	0	0	0	0	0	1
Uruguay	0	2	0	1	0	0	0	0	1	0	1
Venezuela	0	3	0	0	1	0	0	0	2	2	1

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. In the course of their visits, these professionals not only get to know the Court's facilities, but also receive talks on the functioning of the inter-American system for the protection of human rights, its history and its impact in the region and in the rest of the world. In 2016, outside its official functions, the Inter-American Court received 60 delegations of university students, lawyers, justices, and civil society organization, from 15 different countries.¹⁷³

173 Regional International Law Program and Access to Justice in Latin America (DIRAJUS) (Germany), January 20; Officials from the Embassy of the United States of America and Judge M. Margaret McKeown, January 27; Law School of the Universidad Autónoma de Puebla and representatives of the Mexican Lawyers' Association (Mexico), January 29; Law School of the Universidad Javeriana de Colombia and the United Nations University for Peace, February 3; Officials from the Judiciary of El Salvador, February 10; Pan-American Language Center (Costa Rica), February 11; Universidad Nacional de Costa Rica, February 18 and March 7; Universidad de San José, Liberia, Guanacaste, campus, February 19; Episcopal College, Panama, March 9; Ministry of Foreign Affairs of Canada, March 15 and April 13; Harvard Kennedy School (United States), March 16; CEJIL, March 17 and October 28; Inter-American Institute of Human Rights (IIHR), April 13; Swiss Agency for Cooperation and Development, May 13; Judiciary of Peru, May 18; Association of Prosecutors of the Costa Rican Public Prosecution Service and Working Committee of the Latin American Prosecutors Federation, May 22; Universidad de Guanajuato (Mexico), May 18; German Embassy, May 24; GIZ officials, May 24, June 28 and September 29; Universidade Luterano, Brazil, May 26; Swedish Embassy in Guatemala, June 13; Universidad de San Buenaventura (Colombia), June 16; Universidad José Cecilio del Valle (Honduras), June 21; Universidad Nacional Autónoma de Honduras, June 22; Organization for Tropical Studies (OTS) and Florida University (UF) (United States), June 23; Junior Officers of the National Police of Colombia, July 7; Universidad de San José, Costa Rica, July 7; Universidad Ricardo Palma, Peru, July 19; Universidad de Santa María (Brazil), July 19; Judge Oscar R. Puccinelli (Argentina), July 21; DePaul University, July 26; Universidad Católica de Honduras, Tegucigalpa campus, August 25; Participants in the IIHR Inter-disciplinary Human Rights Course, August 26; REDLACTRANS (Latin American and Caribbean Network of Trans Women), September 16; Center for Studies on Justice in the Americas, September 29; FUNDEPRODE and judicial officials (Costa Rica), October 6; Argentina Embassy in Costa Rica and Embassy officials, October 19; Participants in the Course on the Inter-American System for the Protection of Human Rights, October 19; Universidad de la Salle, Canoas (Brazil), October 20; Universidad de Costa Rica, western campus, October 25; Bread for the World, October 28; UNITEC (Honduras), October 28; Universidad Mariano Gálvez (Guatemala), November 1; Costa Rican Lawyer's Professional Association and representatives of Mexico, November 2; Participants in the Eduardo Jiménez de Aréchaga Competition (Costa Rica), November 4; Universidad Libre de Colombia, November 10; Universidad Veritas, Costa Rica, November 10; Participants in the course of the Inter-American Institute on Social Responsibility and Human Rights (IRESODH), November 16; Universidad Tecnológica, Honduras, November 17; Callao Lawyer's Professional Association and officials of the Callao Judiciary (Peru), November 17; Instituto Tecnológico y de Estudios Superiores de Monterrey, Moreli campus (Mexico), November 21 and 24; Universidad Interamericana, Panama, December 6.

XIII. Agreements and relations with other entities

A. Agreements with national State entities

The Court signed framework cooperation agreements with the following entities, under which the signatories agreed to carry out the following activities, *inter alia*: (i) organization and implementation of training events, such as congresses, seminars, conferences, academic forums, colloquiums and symposiums; (ii) specialized internships and professional visits by national officials to the seat of the Inter-American Court of Human Rights; (iii) joint research activities; (iv) making available to the national entities the advanced human rights search engine of the Inter-American Court.

- National Assembly of Ecuador,
- National Human Rights Commission of Mexico,
- National Council of Justice of Brazil,
- National Court of Justice of Ecuador,
- Ombudsperson of Costa Rica,
- National Lawyers' Federation of Ecuador,
- Prosecutor's office of Buenos Aires Province,
- Institute of the Federal Judicature of Mexico,
- Norwegian Ministry of Foreign Affairs,
- Federal Public Prosecution Service of Brazil,
- Judiciary of the Republic of Panama,
- Office of the Attorney General of the Republic of Mexico,
- Interior Ministry of the United Mexican States,
- Supreme Court of Justice of the state of Sinaloa, Mexico,
- Electoral Tribunal of the Federal Judiciary of Mexico, and
- Superior Court of Justice of the state of Chihuahua.

B. Agreements with international entities

The Court signed agreements with the following international organizations in order to enhance cooperation between the signatories by, *inter alia*: (i) the exchange of information and experience inherent in compliance with their respective mandates, and (ii) the adoption of commitments by the parties on issues of mutual interest that, within the framework of their authority and functions would result in the achievement of their common goals.

- African Court of Human and Peoples' Rights,
- International Criminal Court,
- Ibero-American Federation of Ombudsmen (FIO),
- Konrad Adenauer Foundation, and
- American Affairs Commission of the International Union of Notaries.

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 collaborate on the following activities, *inter alia*: (i) organization of congresses and seminars, and (ii) professional internships for officials and students of the said institutions at the seat of the Inter-American Court of Human Rights.

- Pontificia Universidad Católica de Chile,
- Universidad Central de Ecuador,
- Universidad de Navarra, Spain,
- Universitat Pompeu Fabra, Spain,
- Universidad de Siena, Italy, and
- Universidad Técnica de Ambato, Ecuador.