I/A Court H.R.
Protecting Rights

2020

# ANNUAL REPORT

Inter-American Court of Human Rights


# I/A Court H.R.

Protecting Rights

# Annual Report 2020

# Contenido

# I. Presentation

President of the IACHR
Judge Elizabeth Odio Benito

On behalf of the judges of the Inter-American Court of Human Rights, as well as its Secretariat, I have the honor to present the 2020 Annual Report, which describes the most significant tasks accomplished during the year and the most relevant developments in the area of human rights.

2020 has been a year full of challenges. When, in December 2019, my colleagues honored me by electing me as their President, I would never have imagined that humanity would be experiencing such complex times as those we are living through today. I would never have imagined that a pandemic would be afflicting our planet, depriving millions of persons of their loved ones and touching all of us. I would never have imagined that the already harsh situation of women and girls throughout our region would be made even harsher by a disease that, although it affects all of us, has a disproportionate impact on the most vulnerable.

2020 has brought great uncertainty and the need to take immediate decisions. As the human rights court of the Americas, we had to adapt rapidly to the situation. It has not been easy. I have to acknowledge that exercising leadership in these circumstances was a complex task. However, as President, our goal was always clear. We must continue the Court's work, contributing – within the framework of our functions and competences – to the protection of the human rights of the individual in the context of the pandemic. We have also sought to protect the health of all the Court's staff, adopting teleworking methods and the necessary biosecurity measures.

Our work, in 2020, has been marked by this pandemic and, in an exercise of transparency, I would like to present the most relevant actions.

## The challenges of teleworking

On February 20, we conducted an internal information campaign for the staff on measures of prevention and the implementation of special biosecurity measures throughout the seat of the Court. On March 9, as soon as we received information that the first cases of the new coronavirus had arrived in Costa Rica, the Court decided that any of its Secretariat staff who were especially vulnerable (pregnant women, people with high blood pressure or heart disease, etc.) should immediately work from their homes. Starting on that date, the Court put in place rigorous measures restricting the working hours and staff presence, as well as progressive teleworking measures, so that, initially, the Court's seat and its Library had no more than 40% occupancy, while teleworking was urgently organized for all the staff.

Immediately after the World Health Organization (WHO) declared that COVID-19 was a pandemic in March 2020, and complying with the general guidelines issued by the Government of Costa Rica, the country where the Court has its seat, we decided to suspend the second week of public hearing of the 134th regular session scheduled for March 16 to 20[1]. We also suspended visits to the Court's facilities and to the Library.

1 Vee IACtHR Press Release at: http://www.corteidh.or.cr/docs/comunicados/cp_19_2020.pdf.

Although our priority was always to take care of the health of our staff and of those appearing before the Court, we had to adapt rapidly to teleworking, which was no minor challenge. Indeed, it has been information and communication technology tools that have allowed us to continue our work and it is worth underlining some aspects. It was very advantageous that the Court already had digital files and this permitted the lawyers, from their homes, and the judges, from their respective countries, to access them. Nevertheless, even though we were already using technology to process cases and for internal and external communications, the use of videoconferences for our collegiate meetings was new. I must confess that moderating deliberations virtually represented a major challenge. In this regard, I must acknowledge the work of the Court's Secretariat, as well as of my colleagues, the judges, who untiringly gave priority to the work of the Court allowing us not to lose a single hour of work. The Inter-American Court has proved to be a resilient, flexible and adaptable institution.

## Suspension of deadlines

Despite the immediate adjustments that we made to our work, we were advised by the parties to the proceedings – by both the representatives of presumed victims and the States – that the strict quarantine measures adopted in some countries represented obstacles to continue processing cases due, among other matters, to difficulties in accessing documents or producing evidence by affidavit. In an effort to continue the proceedings, and considering that access to justice was essential, the Court issued Decision 1-20 declaring the "Suspension of deadlines owing to the COVID-19 health emergency" and decided to suspend all deadlines between March 17 and April 21, inclusive. The deadlines suspended included those in contentious cases, in monitoring compliance, and in advisory opinions. The only exception was in the case of provisional measures, which are measures requiring immediate protection in cases of extreme gravity and urgency in order to prevent irreparable harm to those concerned[2]. After evaluating the suspension, it was agreed to extend it on the same basis until May 21,[3] the date on which all procedural deadlines were resumed.

## Statement "Covid-19 and Human Rights"

As was to be expected, the Inter-American Court, as an organ for the protection of human rights and the only regional court in the Americas in this area, began to work specifically on the human rights problems arising from the pandemic. Thus, on April 9, 2020, the Court issued the statement "COVID-19 and Human Rights" in which it established clear and specific guidelines on the standards developed by the Court for the protection of human rights in the context of the pandemic to guide State actions. In particular, the Court considered that the extraordinary challenges and problems caused by the pandemic should be addressed from a human rights perspective.

In addition to highlighting those whose rights are disproportionately affected by the measures to mitigate the pandemic, such as women and other vulnerable groups, the Court considered that multilateralism was essential in order to coordinate regional efforts to contain the pandemic.

Social isolation measures have given rise to an exponential increase in domestic violence against women and girls. Therefore, in the Statement, the Court called on States to respect their obligation of strict due diligence in relation to the right of women to live a life free of violence, and the need for States to take all necessary steps to prevent cases of gender-based and sexual violence, to establish safe mechanisms for direct and immediate complaints, and to enhance care for the victims.

Given the nature of the pandemic, the Court considered that economic, social, cultural and environmental rights should be guaranteed, without discrimination, to everyone subject to the State's Jurisdiction and, especially, to those groups that are disproportionately affected because they are in a more vulnerable situation, such as older persons, children, persons with disabilities, migrants, refugees, stateless persons, persons deprived of liberty, the LGBTI community, pregnant or postpartum women, indigenous communities, Afro-descendants, those who work in the informal sector, the inhabitants of underprivileged districts or areas, the homeless, those living in poverty, and the health care

2 See IACtHR Press Release at: http://www.corteidh.or.cr/docs/comunicados/cp_18_2020.pdf.
3 Decision 2/2020. https://www.corteidh.or.cr/corteidh/cf/jurisprudencia2/acuerdo_de_corte.cfm?acuerdo=5&lang=es

personnel who are responding to this emergency.

Based on its case law on the right to health, the Court considered that this should be ensured particularly during the pandemic, respecting human dignity and fundamental bioethical principles, as well as in accordance with inter-American standards on the availability, accessibility, acceptability and quality of health care, as appropriate for the specific circumstances of COVID-19.

## Virtual hearings

We have all evidently had to adapt to this new normality. As a Court, we have faced a real dilemma as we have not wanted to sacrifice justice, while safeguarding the rights and the procedural guarantees of the parties. And, it is a fact that virtuality has involved procedural challenges for the victims. For example, it is well-known that victims play a major role in the public hearings before the Inter-American Court as an essential component of access to inter-American justice. This role is important for the work of the Court when it is deciding a case, not only from the substantive point of view but also from the perspective of reparation. As a judge, I have been able to appreciate this directly because, in most cases, we ask the victims who appear before the Court what they expect of the Inter-American Court. Many of them answer that just to be in the Court and to be heard has reparatory effects. This is why holding this type of public hearing virtually presents important challenges, not only for the Court but also for the parties to the proceedings. We have all had to adjust to this new normality, adapting to virtual hearings, procedures, and deliberations.

A positive aspect of this way of working was that more people were able to appear before the Court to present their observations in the proceedings on requests for advisory opinions. In the context of this advisory function, which is very relevant in the inter-American system, we were able to hold two public hearings with the broad-based participation of almost 60 delegations. Holding hearings virtually also allowed us to hold immediate and urgent hearings on requests for provisional measures.

## Provisional measures and enhanced monitoring of compliance in the context of the pandemic

Situations also arose in the substantive work of the Court where we had to act to protect the life and integrity of individuals in the context of the pandemic. I would like to refer to two cases in particular.

The first is the 2010 *case of Velez Loor v. Panama*. While monitoring compliance in this case, on May 7, 2020, the victim's representatives filed a request for provisional measures before the Court for the purpose of requiring the State to implement measures of protection in favor of migrants retained in two migrant reception centers in Panama in order "to prevent harm to their rights to life, health and personal integrity" in the context of the current COVID-19 health crisis. As President of the Court, within the framework of my competences, I decided to adopt urgent measures after verifying that the requirements had been met. Then, as a Court, we decided to call a virtual hearing to hear to the victim's representatives, the State and the Inter-American Commission on Human Rights, as well as the national Ombudsman.

The problem we faced was that the matter related to people in a situation of human mobility, some of whom might require international protection, who were passing through Panama on their way north; in other words, to the United States of America. These persons were in Panama by chance when the health emergency was declared. In its order adopting provisional measures, the Court acknowledged the difficulties faced by the State of Panama as a result of the closure of regional borders in relation to attending to migrants who needed to continue on to other countries, as well as the State's efforts to respond to the situation.

The second relevant case is that of the 2006 *case of the Miguel Castro Castro Prison v. Peru*, and relates to an excessive use of force by the State that resulted in the death of dozens of prisoners, as well as numerous injuries.

In the context of monitoring compliance with the judgment, the victims' representatives filed a request for provisional measures in order to protect the right to health, personal integrity and life of "four victims and one family member" in the case of the Miguel Castro Castro Prison who were in three Peruvian prisons, owing to the supposed failure of the State to take adequate measures in the context of the COVID-19 pandemic. As in the preceding case, we assessed whether the gravity of the situation warranted the adoption of provisional measures. At that time and with the information we had, we decided that it was not appropriate to order provisional measures; rather, we decided to channel the case through what we call "enhanced monitoring." Under this mechanism, the State is required to present information to the Court at much shorter intervals during execution of judgment.

## Reinforcement of the institutional policy with regard to sexual and workplace harassment

In the Inter-American Court of Human Rights, we have made a firm and clear commitment to prevent and, if applicable, not to tolerate any type of harassment, including sexual harassment, as practices that are contrary to the dignity of the individual. As part of this institutional policy, the Inter-American Court has taken new measures in this regard and, in 2020, adopted *new Internal Regulations on conflict resolution for the prevention and elimination of all forms of sexual and workplace harassment*, which have been in force since July 10, 2020. The purpose of the Regulations is to prevent and to prohibit sexual and workplace harassment and, if appropriate, to sanction it and adopt the necessary corrective measures.

## Cycle of conferences: "Covid-19 and Human Rights"

From June to August, we organized a cycle of virtual conferences entitled "COVID-19 and Human Rights," to discuss the challenges to human rights that the region was facing due to COVID-19 with experts from other international bodies, members of academe, human rights defenders, and also journalists and civil society in general. Over six weeks, the Inter-American Cycle of Conferences had more than 23,000 registered participants from 34 countries.

The conferences addressed the following topics: (i) Persons deprived of liberty and COVID-19; (ii) Gender violence and COVID-19; (iii) Restrictions to and suspension of rights and COVID-19; (iv) The economic impact of COVID-19 and its consequences on the enjoyment of economic, social, cultural and environmental rights; (v) The impact of COVID-19 on vulnerable groups, and (vi) Impacts of COVID-19 on the rule of law and the challenges.

## Virtual meeting between the three regional courts

Bearing in mind the spirit of dialogue that characterizes the Inter-American Court and considering the context of the pandemic, we decided to organize the first virtual dialogue between the world's three regional human rights courts. On July 13, the Inter-American Court, the European Court of Human Rights and the African Court of Human and Peoples' Rights held a meeting to discuss the impact of COVID-19 on human rights in the three continents. The idea behind the meeting was also to show the importance of dialogue and joint action within the framework of our respective competences to address such a relevant topic. Additionally, the Joint Law Report 2019 of the three regional human rights courts was published, and also Dialogue between Regional Human Rights Courts. All these actions are part of the dialogue between the international courts, a result of which has been the Declarations of San José (2018) and of Kampala (2019).

## Jurisdictional activities

I would like to emphasize that, although the year has signified major challenges for out Court, it was also a year where a great deal of work was done, and we were able to achieve our goals. The average time for processing cases decreased to 19 months, which is less that during the two previous years. Regarding the production of case law, we delivered 19 judgments on merits, and 4 on interpretation, and issued 43 orders on monitoring compliance with judgment, 14 on provisional measures, and 6 on provisional measures and monitoring compliance with judgment. In recent years, the Court has been increasing its work of monitoring compliance, a function of great important for this

Court because it allows it to ensure that the reparations ordered in its judgments are executed and, thus, materialize inter-American justice. Furthermore, this year the Court issued Advisory Opinion OC-26/20 on "The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States." In addition, the Court is currently monitoring 24 provisional measures that are in force, and also processing three requests for an advisory opinion on issues of great relevance and that are intended to respond to current challenges to human rights by interpreting the meaning and scope of obligations contained in the American Convention and other international treaties. Lastly, 23 new contentious cases have been submitted to the Court's consideration.

As for the activities of the Court itself, six regular sessions were held at its seat in San José, Costa Rica, during which 10 public hearings were held on contentious cases, 1 hearing on provisional measures, 4 hearings on advisory opinions, 1 hearing on provisional measures and monitoring compliance with judgment, and 9 private hearings on monitoring compliance with judgment.

Regarding case law this year, it should be noted that the Court has continued to rule on innovative issues, as well as to consolidate important international human rights standards. We have been able to reaffirm our case law on the following issues among others: the denunciation of the American Convention on Human Rights and the OAS Charter and the effects on a State's human rights obligations; the rights of girls to a life free of sexual violence, particularly in educational settings; the prohibition of child labor; prejudice-based violence against the LGBTI community; the use of stereotyping in arrests and racial profiling; access to justice for people in a situation of human mobility; the guarantee of tenure for prosecutors appointed on a provisional basis; freedom of expression of judges and the factor of internal independence; the economic, social, cultural and environmental rights of indigenous peoples, particularly the right to a healthy environment, to adequate food, to water, and to participate in cultural life, and the standards for the permissible limitation of political rights for elected officials.

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Without doubt, 2020 has been a year of major challenges for humanity. The Inter-American Court is endeavoring, as best possible, to take on these challenges always with the goal of protecting the human rights of every individual. It has also been a year of great uncertainty, anxiety and sorrow for thousands of people, including our staff, family members and friends. Our thoughts are with them and our hopes for a prompt recovery. Nevertheless, it has also been a year in which we have been able to adapt to the changes and continue working for the victims. Thank you.

*Judge Elizabeth Odio Benito*
*President Inter-American Court of Human Rights*
*December 2020*

# The Court: Structure and attributions

# II. The Court: Structure and attributions

## A. Creation

The Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") 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 Court (hereinafter, "the Statute") establishes that it is an "autonomous judicial institution," with the mandate of interpreting and applying the American Convention.

Seat of the Court in San José, Costa Rica

## 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").[4]

The judges are elected by the States Parties to the American Convention, 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[5].

Judges are elected for a term of six years and may be re-elected only once. Judges whose terms have expired shall continue to service with regard to the "cases they have begun to hear and that are still pending judgment and, to this end, they will not be replaced by the judges newly-elected[6] 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.[7] In 2020, the composition of the Court was as follows (in order of precedence)[8]

- Elizabeth Odio Benito (Costa Rica), President;
- Patricio Pazmiño Freire (Ecuador), Vice President;
- Eduardo Vio Grossi (Chile);
- Humberto Antonio Sierra Porto (Colombia);
- Eduardo Ferrer Mac-Gregor Poisot (México);
- Eugenio Raúl Zaffaroni (Argentina); and
- Ricardo Pérez Manrique (Uruguay).

During the 132nd regular session, the Court elected a new Board. Judge Elizabeth Odio Benito (Costa Rica) was elected President and Judge Patricio Pazmiño Freire (Ecuador), Vice President. The mandate of the President and Vice President elect commenced on January 1, 2020, and will end on December 31, 2021.

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), Pursuant to the regulatory and statutory provisions, on February 11, 2020, Pablo Saavedra Alessandri appointed Romina I. Sijniensky, an Argentine national, as the new Deputy Secretary.

4 American Convention on Human Rights, Article 52. Cf. Statute of the Inter-American Court of Human Rights, Article 4.
5 *Ídem.*
6 Ídem.
7 Statute of the Inter-American Court of Human Rights, Article 12.
8 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."

In front from left to right: Judge Humberto Sierra Porto; Judge Patricio Pazmiño, Vice President; Judge Elizabeth Odio Benito, President; and Judge Eduardo Vio Grossi. Behind from left to right: Judge Eugenio Raúl Zaffaroni; Judge Eduardo Ferrer Mac-Gregor Poisot; and Judge, Ricardo Pérez Manrique.

## C. States Parties [9]

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


9 On May 26, 1998, Trinidad and Tobago presented an instrument denouncing the American Convention on Human Rights to the Secretary General of the Organization of American States (OAS). Pursuant to Article 78(1) of the American Convention the denunciation took effect one year later, on May 26, 1999. Also, on September 10, 2012, Venezuela presented an instrument denouncing the American Convention on Human Rights to the OAS Secretary General. The denunciation took effect on September 10, 2013.

## D. Functions

According to the American Convention, the Court exercises three main functions: (I) the contentious function; (ii) the power 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 procedures followed by the Court to decide the contentious cases submitted to its Jurisdiction: **(a) the contentious stage** and **(b) the stage of monitoring compliance with judgment.**

#### Contentious stage

This stage has six phases:

a) Initial written phase;
b) Oral phase or public hearing and reception of statements;
c) Final written arguments of the parties and observations of the Commission;
d) Evidentiary procedures;
e) Deliberation and delivery of the judgment; and
f) Interpretation requests.

#### a) Initial written phases

##### a.1) Submission of the case by the Inter-American Commission on Human Rights[10]

The proceedings begin with the submission of the case by the Inter-American Commission on Human Rights ("the Inter-American Commission" or "the Commission"). To ensure the appropriate processing of the case, the Court's Rules of Procedure require that the brief presenting the case include, *inter alia*[11]:

- a copy of the report issued by the Commission under Article 50 of the American 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 arguments to which it 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/her representatives, or the Inter-American defender if appropriate[12]. During this stage, a judge rapporteur is appointed to the case, in chronological order and, with the support of the Court's Secretariat, he examines the respective case.

12 *Ibid.*, Article 38 and 39.

### a.2) Designation of an Inter-American Public Defender

When a presumed victim does not have legal representation in a case and/or lacks financial resources and indicates his/ 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 defenders who will assume their legal representation and defense. The AIDEF General Secretariat will select two defenders and one substitute[13] from among the Inter-American public defenders to represent the presumed victim before the Court. The Court will then forward them the documentation relating to the submission of the case to the Court so that they may assume the legal representation of the presumed victim before the Court from then on, and throughout the processing of the case.

### a.3) Presentation of the brief with pleadings, motions and evidence by the presumed victims

The presumed victims or their representatives have two months following the date of notification of the presentation of the case and its annexes to submit their autonomous brief with pleadings, motions and evidence (also known as "the pleadings and arguments brief"). This brief must include, *inter alias*[14]:

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

### a.4) Presentation of the answering brief by the defendant State

When the pleadings and arguments brief has been notified, the State has two months from the time it receives this brief and the attachments to present its brief answering the briefs presented by the Commission and the presumed victims or their representatives, which must indicate, *inter alia:*

- whether it files preliminary objections;
- 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;
- the legal arguments, the observations on the reparations and costs requested, and the pertinent conclusions, and;
- when Inter-American public law is affected in a relevant manner, the possible proposal of expert witnesses,
- indicating the purpose of their opinions and accompanied by their curriculum vitae.

This answering brief is forwarded to the Commission and the presumed victims or their representatives[15].

### a.5) Presentation of the brief with observations on the preliminary objections filed by the State

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 the objections[16].

### a.6) Presentation of the brief with observations on the State's acknowledgement of responsibility

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.

### a.7) Possibility of taking other measures in the context of the written proceedings

After the brief submitting the case, the pleadings and motions brief, and the State's answering brief have been

13 Article 12 Article 12 of the "Standardized Regulations for the actions of the AIDEF before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights," approved on June 7, 2013, by the AIDEF Board, and entered into force, pursuant to Article 27 of these regulations, on June 14, 2013.
14 *Ibíd.*, Article 40.
15 *Ibíd.*, Article 41.
16 *Ibíd.*, Article 42.4.

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 deadlines for presentation of the respective documents[17].

#### *a.8) Reception of amicus curiae*

Any interested person or institution may submit amicus curiae briefs to the Court. These are briefs prepared by third persons who are not parties to a case, who voluntarily offer their opinion on some aspect of the case in order to collaborate with the Court in its deliberations. In contentious cases, this type of brief can be presented at any moment of the proceedings, but no more than 15 days after the public hearing. In cases in which no public hearing is held, such briefs must be sent within 15 days of the corresponding order setting a deadline for forwarding the final arguments. *Amicus curiae* briefs may also be submitted in proceedings on monitoring compliance with judgment and on provisional measures[18].

### b) Oral phase or public hearing

The oral phase or public hearing begins with the submission by the parties and the Commission of the final lists of deponents. When these have been received, they are forwarded to the other party so that the latter may send any observations or objections it deems pertinent[19].

Then, the Court or its President calls for a hearing in an order in which any observations, objections or recusals presented by the parties are taken into consideration if this is found necessary. In the order the purpose and method of providing the testimony of each deponent is defined.[20] The hearings are public unless the Court considers it desirable that they be totally or partially private[21].

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[22]. The judges of the Court then hear the presumed victims, witnesses and expert witnesses convened by the above-mentioned order, who are examined by the parties and, if appropriate, by the judges. The Commission may question certain expert witnesses in exceptional circumstances under the provisions of Article 52(3) of the Court's Rules of Procedure; that is, when the Inter-American public order of human rights is relevantly affected and when their opinion refers to an issue contained in an expert opinion offered by the Commission. After this, the President gives the floor to the parties so they may present their arguments on the merits of the case. Subsequently, the President grants them the opportunity for a reply and a rejoinder. Once the arguments have concluded, the Commission presents its final observations and then the judges pose their concluding questions to the representatives, the victims and the Inter-American Commission.[23] This hearing usually lasts a day and a half and is livestreamed via the Court's social networks.

The recordings of the public hearings can be found here.

### c) Phase of final 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[24].

17 *Ibid., Article 43.*
18 *Ibíd.*, artículo 44.
19 *Ibid., Article 46.*
20 *Ibid.,* Article 46.
21 *Ibid.*, Article 15.
22 *Ibíd.,* Article 51.
23 *Ibíd.,* Article 51.
24 *Ibíd.,* Article 56.

### d) 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 opinion 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.

### e) Phase of deliberation and delivery of judgment

During the phase of deliberation and delivery of judgment, the judge rapporteur of each case, supported by 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 then deliberate on this draft judgment. During these deliberations, the draft is discussed and approved until the operative paragraphs of the judgment are reached; these are then voted on by the Court's judges. In some cases, the judges submit their dissenting or concurring opinions. After the Court has delivered the judgment, it is published and notified to the parties.

### f) Requests for interpretation and rectification

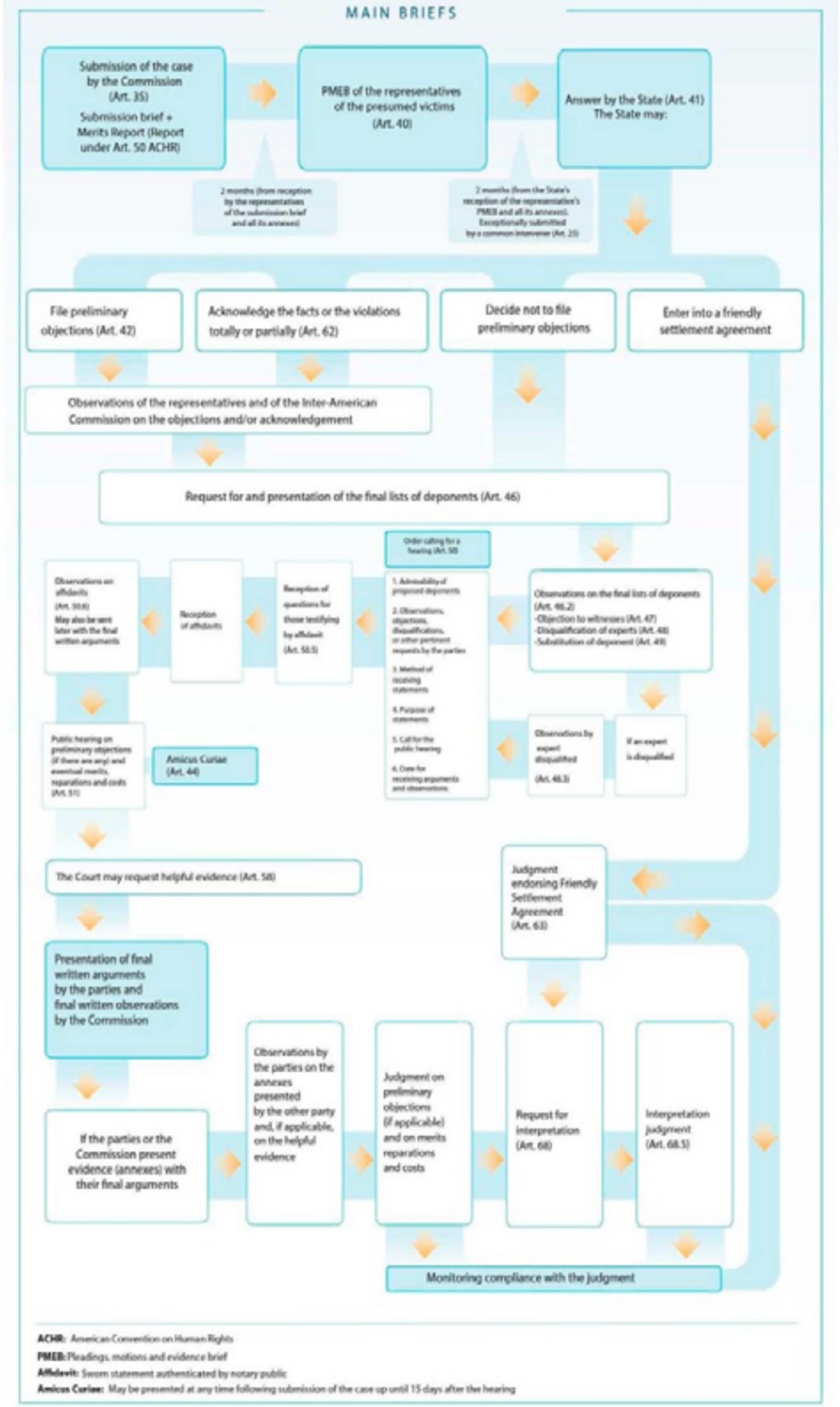
The judgments handed down by the Court are final and non-appealable[25]. Nevertheless, the parties and the Commission have 90 days in which they may request clarification of the meaning or scope of the judgment in question. Pursuant to the American Convention, the Court decides this matter by an interpretation judgment. The interpretation may be made at the request of any of the parties, provided it is submitted within the 90 days of notification of the judgment[26]. 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[27].

## 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 executed and complied with fully. For a detailed analysis of the Court's activity in the area of monitoring compliance with judgments, see Section V.

25 American Convention of Human Rights, Article 67.
26 *Idem*.
27 Rules of Procedure of the Inter-American Court of Human Rights, Article 76.

## OUTLINE OF THE PROCEDURE BEFORE THE IACHR



## 2. Function of ordering 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: (a) extreme gravity and (b) urgency, and (c) at risk of suffering irreparable harm.[28]. These three requirements must be met for the Court to grant such measures.

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. In addition, the representatives of the presumed victims can request provisional measures, 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, and the corresponding comments of the beneficiaries or their representatives and of the Commission. In addition, the Court or its President may decide to call for a public or private hearing to verify the implementation of the provisional measures, and even order any procedures that are required, such as on-site visits to verify the actions that the State is taking.

## 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[29].

The main purpose of the advisory opinions is to assist member States of the Inter-American system comply with their commitments in the area of human rights. In other words, their objective is to help the States and organs comply with and apply human rights treaties, without subjecting them to contentious proceedings.

Although the Court is bound by the natural limits indicated by the Convention, it has established that its advisory function is as broad as necessary to safeguard human rights. However, it should be stressed that the Court is not obliged to issue advisory opinions on every aspect of a request and that, based on the admissibility criteria, it may abstain from ruling on certain issues and reject requests.

All the organs of the Organization of American States may request advisory opinions as well as all the OAS Member States, whether or not they are parties to the Convention. The organs of the Inter-American System recognized in the OAS Charter are:

a) The General Assembly;
b) The Meeting of Consultation of Ministers for Foreign Affairs;
c) The Councils;
d) The Inter-American Juridical Committee;
e) The Inter-American Commission on Human Rights;
f) The General Secretariat;
g) The Specialized Conferences; and
h) The Specialized Organizations.

The procedure for advisory opinions is regulated in Article 73 of the Court's Rules of Procedure. First, the States or organs of the OAS must forward to the Court a request for an advisory opinion that must comply with certain requirements.

The formal requirements for requests for an advisory opinion are established in Articles 70, 71 and 72 of the Court's Rules of Procedure. The requests must state with precision the specific questions on which the Court's opinion is sought; identify the provisions to be interpreted and the international norms other than those of the American

28 American Convention on Human Rights, Article 63(2). *Cf.* Rules of Procedure of the Inter-American Court of Human Rights, Article 27.
29 *Ibid., Article 64.*

Convention that also require interpretation; the considerations giving rise to the request, and the names and addresses of the agent or the delegates. If the advisory opinion is sought by an OAS organ other than the Commission, the request must also specify how it relates to the sphere of competence of the organ in question. In addition, Article 72 of the Rules of Procedure establishes the requirements for requests related to the interpretation of domestic laws. In that case, the request must include the provisions of domestic law and of the Convention or of other international treaties to which the request relates.

Upon receipt of the request, the Court's Secretary transmits it to the Member States, the Commission, the Permanent Council, the Secretary General, and the organs of the OAS. The Court also issues a wide-ranging invitation to submit observations to, *inter alia*, universities, human rights clinics, non-governmental organizations, professional associations, interested persons, state organs, international organizations and States.

Subsequently, the President establishes a time limit for the reception of written observations and, if appropriate, the Court will decide whether a public hearing should be held and set a date. During the public hearing, all those who have contributed written observations and indicated that they wish to present these orally may participate.

Lastly, the Court proceeds to deliberate the issues presented in the request and to issue the advisory opinion. The judges also have the right to issue a concurring or dissenting opinion on the request, which will form an integral part of the opinion.

# Sessions held in 2020

# III. Sessions held in 2020

## A. Introduction

The Court holds collegiate meetings during a certain number of sessions each year. These meetings take place both at its seat in San José, Costa Rica, and away from the seat. During each session, the Court conducts different activities such as:

- Holding hearings on contentious cases, and monitoring compliance with judgments or provisional measures.
- Deliberating contentious cases.
- Delivering judgment on contentious cases.
- Issuing orders on monitoring compliance with judgments.
- Issuing orders on provisional measures.
- Monitoring compliance with judgments and implementation of provisional measures.
- Dealing with different procedures in matters pending before the Court, as well as administrative matters.
- Holding meetings with national and international authorities.

## B. Summary of the sessions

The Court held six regular sessions. Two of them were held with the judges present at the Court's seat in San José, Costa Rica, while four were held virtually pursuant to the provisions of the Rules of Procedure, owing to the Covid-19 pandemic. It should be noted that, although the Court had to adapt to using information and communication technology, it considered it necessary to continue the collegiate working sessions remotely. This has allowed it to sit for 71 days during the year; 11 days more than in 2019.

Details of these sessions appear below:

### 1. 133rd regular session

### a) Ceremony to inaugurate the 2020 Inter-American Judicial Year

The Court held its 133rd regular session in San José, Costa Rica, from January 27 to February 7, 2020. During the session, a ceremony was held to inaugurate the 2020 Inter-American Judicial Year. The event was attended by the President of the Republic of Costa Rica, Carlos Alvarado Quesada, the First Lady of the Republic of Costa Rica, Claudia Dobles Camargo, Christiana Figueres Olsen, former Executive Secretary of the United Nations Framework Convention on Climate Change, and other senior authorities of the Costa Rican Government, members of the Diplomatic Corps accredited to Costa Rica, and representatives of Civil Society.

Prior to the ceremony, the full Inter-American Court held a meeting with the President of the Republic of Costa Rica, the First Lady, and the Minister for Foreign Affairs and Worship, during which they discussed the challenges to human rights in the region and the world.

During the ceremony to inaugurate the 2020 Inter-American Judicial Year, the Court's new Board was formally installed, composed of Judge Elizabeth Odio Benito as President and Judge Patricio Pazmiño Freire as Vice President. The mandate of the new Board began on January 1st, 2020, and will conclude on December 31, 2021.

The ceremony to inaugurate the 2020 Inter-American Judicial Year included a keynote presentation on "Human rights and climate change" by Christiana Figueres Olsen.

### b) Hearings and deliberation of cases

During this session, the Court held six public hearings on contentious cases. It also issued three judgments in contentious cases, and one order on provisional measures. In addition, the Court decided to admit two requests for advisory opinions for processing[30].

Likewise, the Court issued three judgments in contentious cases[31], a resolution on provisional measures[32]. The Court decided to process two requests for advisory opinions[33].

Furthermore, the Court examined various matters related to provisional measures, contentious cases and requests for advisory opinions that were being processed.

### c) Other activities

Among the other activities carried out during the 133rd regular session, the Court signed agreements with universities of El Salvador, Mexico and Peru. The agreements covered internships, research visits, and academic exchanges between the institutions.

30 Case of Guzmán Albarracín et al. v. Ecuador; Case of Urrutia Laubreaux v. Chile; Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil; Case of Roche Azaña et al. v. Nicaragua; Case of Spoltore v. Argentina, and Case of Petro Urrego v. Colombia.

31 Case of Carranza Alarcón v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 3, 2020. Series C No. 399; Case of Montesinos Mejía v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of January 27, 2020. Series C No. 398, and Case of Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400.

32 Matter of the Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region with regard to Nicaragua. Expansion of provisional measures. Order of the Inter-American Court of Human Rights of February 6, 2020.

33 The Inter-American Commission on Human Rights presented a request for an advisory opinion on "Differentiated approaches to persons deprived of liberty," and the Colombian State presented a request for an advisory opinion on "The mechanism of indefinite presidential re-election in the context of the Inter-American System of Human Rights".

## 2. 134th regular session


The 134th regular session was scheduled from March 9 to 20, 2020. However, owing to the health measures decreed by the Government of the Republic of Costa Rica and the World Health Organization related to the Covid-19 pandemic, the Court decided to suspend the hearings and activities programed for the week of March 16 to 20, 2020[34].

From March 9 to 13, two public hearings were held on contentious cases[35] and one hearing on a request for provisional measures[36]. In addition, the Court issued two judgments in contentious cases[37], fifteen orders on

34 Further information: "Inter-American Court of Human Rights suspends 135th regular session scheduled for April 2020".
35 Case of Acosta Martínez et al. v. Argentina, and Case of Fernández Prieto et al. v. Argentina.
36 Matter of the Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region with regard to Nicaragua.
37 Case of Noguera et al. v. Paraguay. Merits, reparations and costs. Judgment of March 9, 2020. Series C No. 401, and Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402.

monitoring compliance with judgment[38] and two orders on requests for provisional measures[39].

In addition, during this session, an agreement was signed with the Universidad Tecnológica Nacional of Argentina. Judge Elizabeth Odio Benito, President of the Court, and Judge Raúl Zaffaroni signed the agreement on behalf of the Inter-American Court of Human Rights with the Argentine academic authorities who were visiting the seat of the Court.

## 3. 135th regular session


The Inter-American Court held its 135th regular session virtually from June 1 to July 31, 2020. The President of the Inter-American Court, Judge Elizabeth Odio Benito, indicated that "adapting to the current circumstances, the Inter-American Court will continue its work using information and communication technology to perform its tasks." The use of information technology (IT) allowed the Court's judges and the Secretariat personnel to reduce their risk of contagion by working from home, and also permitted representatives of the OAS Members States, the Inter-American Commission on Human Rights, and more than 60 delegations from different countries of the Americas to take part in the Court's hearings.

During this two-month session, two public hearings were held on requests for an advisory opinion[40] and one public

38 Case of Bueno Alves v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 11, 2020; Case of Fontevecchia and D'Amico v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 11, 2020; Case of Boyce et al. v. Barbados. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 9, 2020; Case of DaCosta Cadogan v. Barbados. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 11, 2020; Case of I.V. v. Bolivia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1, 2020; Case of Duque v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 12, 2020; Case of Cepeda Vargas v. Colombia. Monitoring compliance with judgment. Order of the President of the Inter-American Court of Human Rights of March 12, 2020; Case of Vereda la Esperanza v. Colombia. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 9, 2020; Case of Ramírez Escobar et al. v. Guatemala. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 12, 2020; Case of López Lone et al. v. Honduras. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 9, 2020; Case of Rosendo Cantú et al. v. Mexico. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 12, 2020: Case of Osorio Rivera and family members v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 9, 2020; Case of Muelle Flores v. Peru. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 12, 2020; Case of Canales Huapaya et al. v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 12, 2020, and Case of Liakat Ali Alibux v. Suriname. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 9, 2020.

39 Case of Cuya Lavy et al. v. Peru. Request for provisional measures. Order of the Inter-American Court of Human Rights of March 12, 2020, and Case of Urrutia Laubreaux v. Chile. Request for provisional measures. Order of the Inter-American Court of Human Rights of March 12, 2020.

40 Hearing on the request for an advisory opinion on human rights obligation of a State that has denounced the American Convention on Human Rights presented by Colombia, and Hearing on the request for an advisory opinion on the scope of State obligations concerning the guarantee of freedom of association, its relationship to other rights and application from a gender perspective, presented by the Inter-American Commission on Human Rights.

hearing on a request for provisional measures[41].In addition, the Court delivered six judgments on contentious cases[42], and issued ten orders on monitoring compliance with judgment[43] and seven order provisional measures[44].

In addition, during this session, the President of the Inter-American Court of Human Rights, Judge Elizabeth Odio Benito, signed institutional cooperation agreements, virtually, with the Universidad Nacional del Rosario of Argentina, the Universidad Nacional de Catamarca of Argentina, the Ecuadorian Ombudsman, the Lawyers' Professional Association of Costa Rica, and the Instituto Universitario Nacional de Derechos Humanos "Madres de Plaza Mayo" of Argentina.

## 4. 136th regular session


The Inter-American Court held its 136th regular session virtually from August 24 to September 3, During this session it head the observations of the Inter-American Commission of Women (CIM) on a request for an advisory opinion[45].

41 Case of Vélez Loor v. Panama. Provisional measures. Adoption of provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020.

42 Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403; Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs. Judgment of June 9, 2020. Series C No. 404; Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405; Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406; Case of the Workers of the Firework Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, and Case of Valle Ambrosio et al. v. Argentina. Merits and reparations. Judgment of July 20, 2020. Series C No. 408.

43 Case of Bueno Alves v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1,2020; Case of Huilca Tecse v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1, 2020; Case of I.V. v. Bolivia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1, 2020; Case of Valle Jaramillo et al. v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1, 2020; Case of Cabrera García and Montiel Flores v. Mexico. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 24, 2020; Case of Villaseñor Velarde et al. v. Guatemala. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of June 24, 2020; Case of Munárriz Escobar et al. v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of July 20, 2020; Case of Zegarra Marín v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of July 21, 2020; Case of Órdenes Guerra et al. v. Chile. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of July 21, 2020; Case of Torres Millacura et al. v. Argentina. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of July 21, 2020, and Case of the Miguel Castro Castro Prison v. Peru. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of July 29, 2020.

44 Case of the 19 Traders v. Colombia. Expansion of provisional measures. Order of the Inter-American Court of Human Rights of June 1, 2020; Case of Durand and Ugarte v. Peru. Provisional measures. Order of the Inter-American Court of Human Rights of June 1, 2020; Matter of Members of the Choréachi Indigenous Community with regard to Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of June 10, 2020; Case of Fernández Ortega et al. v. Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of June 10, 2020; Case of Mack Chang et al. v. Guatemala. Provisional measures. Order of the Inter-American Court of Human Rights of June 24, 2020; Matter of Certain Venezuelan Prisons. Humberto Prado. Marianela Sánchez Ortiz and family with regard to Venezuela. Provisional measures. Order of the Inter-American Court of Human Rights of July 8, 2020, and Case of Vélez Loor v. Panama. Provisional measures. Adoption of Provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020.

45 Request for an advisory opinion on the scope of State obligations concerning the guarantee of freedom of association, its relationship to other rights and application from a gender perspective, presented by the Inter-American Commission on Human Rights.

It also conducted two procedures to hear the statements of presumed victims in contentious cases,[46]. delivered three judgments on contentious cases[47], issued three orders on monitoring compliance with judgment[48], one order on provisional measures,[49], and four orders on monitoring compliance and a request for provisional measures.[50]

## 5. 137th regular session


The Inter-American Court held its 137th regular session virtually from September 28 to October 8, 2020. During this session, it held a public hearing on the request for an advisory opinion on the mechanism of indefinite presidential re-election in the context of the Inter-American System of Human Rights presented by the Colombian State. It also held nine private hearings on monitoring compliance with judgment and one procedure to hear the statement of a presumed victim in a contentious case. In addition, the Court delivered one judgment in a contentious case, and two interpretation judgments. It also issued one order on provisional measures[51] and one order on a request for provisional measures and monitoring compliance with judgment[52]. In addition, the Court delivered one judgment in a contentious case[53], and two interpretation judgments.[54] It also issued one order on provisional measures[55], and one order on a request for provisional measures and monitoring compliance with judgment.[56]

46 Case of Olivares Muñoz et al. v. Venezuela, and Case of Mota Abarullo et al. v. Venezuela.
47 Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409; Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410, and Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and reparations. Judgment of September 1, 2020. Series C No. 411.
48 Case of Villamizar Durán et al. v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 2, 2020; Case of Tenorio Roca et al. v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 2, 2020, and Case of Luna López et al. v. Honduras. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 2, 2020.
49 Case of the Garifuna Communities of Triunfo de la Cruz and Punta Piedra v. Honduras. Provisional measures. Order of the Inter-American Court of Human Rights of September 2, 2020.
50 Case of Ruiz Fuentes et al. v. Guatemala. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 2, 2020; Case of the Pueblo Bello Massacre, Case of the Ituango Massacres, and Case of Valle Jaramillo et al. v. Colombia. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 3, 2020; Case of Molina Theissen v. Guatemala. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 3, 2020, and Case of Galindo Cárdenas et al. v. Peru. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 3, 2020.
51 Joint monitoring of the Cases of Fernández Ortega and Rosendo Cantú v. Mexico; Joint monitoring of the Cases of Acevedo Jaramillo et al. and Acevedo Buendía et al. ("Dismissed and Retired Employees of the Comptroller's Office") v. Peru; Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru; Case of the Campesino Community of Santa Bárbara v. Peru; Case of V.R.P., V.P.C. et al. v. Nicaragua; Case of Almonacid Arellano et al. v. Chile; Case of Mendoza et al. v. Argentina; Case of Bayarri v. Argentina, and Case of De La Cruz Flores v. Peru.
52 Case of Cordero Bernal v. Peru.
53 Case of Martínez Esquivia v. Colombia. Preliminary objections, Merits and reparations. Judgment of October 6, 2020. Series C No. 412.
54 Case of Rosadio Villavicencio v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020. Series C No. 414, and Case of the National Association of Discharged and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT) v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020. Series C No. 413.
55 Matter of Almanza Suárez with regard to Colombia. Provisional measures. Order of the Inter-American Court of Human Rights of October 8, 2020.
56 Case of Galindo Cárdenas et al. v. Peru. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of September 3, 2020.

## 6. 138th regular session


The Inter-American Court held its 138th regular session virtually from November 2 to 26, 2020. During this session, the Court held two public hearings on contentious cases[57]. It also issued an advisory opinion[58], four judgments in contentious cases[59], two interpretation judgments[60], two orders provisional measures[61], two orders on requests for provisional measures and monitoring compliance[62], and nine orders on monitoring compliance with judgments[63].

57 Case of Vicky Hernández et al. v. Honduras, and Case of Guachalá Chimbó et al. v. Ecuador.

58 Denunciation of the American Convention on Human Rights and of the Charter of the Organization of American States and its effects on the State obligations regarding human rights (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26.

59 Case of Olivares Muñoz et al. v. Venezuela. Merits, reparations and costs. Judgment of November 10, 2020. Series C No. 415; Case of Almeida v. Argentina. Merits, reparations and costs. Judgment of November 17, 2020. Series C No. 416; Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, and Case of Casa Nina v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 24, 2020. Series C No. 419.

60 Case of Roche Azaña et al. v. Nicaragua. Interpretation of the judgment on merits and reparations. Judgment of November 18, 2020. Series C No. 418, and Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Interpretation of the judgment on merits, reparations and costs. Judgment of November 24, 2020. Series C No. 420.

61 Case of Vicky Hernández et al. v. Honduras. Provisional measures. Order of the Inter-American Court of Human Rights of November 12, 2020; Matter of Castro Rodríguez with regard to Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of November 18, 2020.

62 Case of the Massacres of El Mozote and neighboring places v. El Salvador. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 19, 2020, and Case of Acevedo Jaramillo et al. v. Peru. Request for provisional measures and Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 19, 2020.

63 Case of Gelman v. Uruguay. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 19, 2020; Case of Colindres Schonenberg v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of El Caracazo v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of the Barrios Family v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of Granier et al. (Radio Caracas Televisión) v. Venezuela. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of the Dismissed Employees of PetroPeru et al. v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of the Kuna Indigenous People of Madungandi and the Emberá Indigenous People of Bayano and their members v. Panama. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020; Case of the Pueblo Bello Massacre v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 18, 2020, and Case of the Women Victims of Sexual Torture in Atenco v. Mexico. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 19, 2020.

# RESULTS OF THE SESSIONS

## HEARINGS

**25** hearings

**10** HEARINGS ON CONTENTIOUS CASES

| 133 POS | 134 POS | 135 POS | 136 POS | 137 POS | 138 POS |
|---|---|---|---|---|---|
| 6 | 2 | 0 | 0 | 0 | 2 |

**2** HEARINGS ON PROVISIONAL MEASURES

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 1 | 1** | 0 | 0 | 0 |

**4** HEARINGS ON AN ADVISORY OPINION

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 0 | 2 | 1 | 1 | 0 |

**9** HEARINGS ON MONITORING COMPLIANCE WITH JUDGMENT

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 0 | 1** | 0 | 9* | 0 |

## JUDGMETS

**23** Judgments

**19** JUDGMENTS ON MERITS

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 3 | 2 | 6 | 3 | 1 | 4 |

**2** INTERPRETATION JUDGMENTS

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 0 | 0 | 0 | 2 | 2 |

## ORDERS

**58** orders

**14** ORDERS ON PROVISIONAL MEASURES

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 1 | 2 | 7 | 1 | 1 | 2 |

**38** ORDERS ON MONITORING COMPLIANCE WITH JUDGMENT

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 15 | 10 | 3 | 1 | 9 |

**6** ORDERS ON MONITORING COMPLIANCE WITH JUDGMENT AND PROVISIONAL MEASURES

| 133 RS | 134 RS | 135 RS | 136 RS | 137 RS | 138 RS |
|---|---|---|---|---|---|
| 0 | 0 | 0 | 4 | 0 | 2 |

* Private hearings.
** Hearing on provisional measures and Monitoring compliance with judgment.

## C. The Inter-American Court's sessions away from its seat

The Inter-American Court has not held sessions away from its seat this year owing to the Covid-19 pandemic. Since 2005, it had been implementing this practice very effectively to achieve two objectives: on the one hand, to increase its jurisdictional activities and, on the other, to disseminate more effectively the work of the Court, in particular, and of the inter-American system for the protection of human rights, in general.

In order to hold these sessions the Court has traveled to Argentina (twice), Barbados, Bolivia, Brazil (twice) Chile, Colombia (5 times), Dominican Republic, Ecuador (3 times), El Salvador (twice), Guatemala (twice), Honduras (twice), Mexico (3 times), Panama (twice), Paraguay (twice), Peru and Uruguay (twice).

# Contentious Function

# IV. Contentious Function

## A. Cases submitted to the Court

During 2020, **23 new contentious cases** were submitted to the Court's consideration:

### 1. Case of Moya Solís v. Peru

**On January 9, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged violation of several rights recognized in the Convention during the administrative procedure ratifying the presumed victim's dismissal from her position as Judicial Secretary of the Third Court for Labor and Labor Communities of Peru. It is alleged that the State violated the right to prior notification in detail of the charges and to have adequate time and means for preparation of the defense because, during the ratification procedure, the victim was not notified of what she was accused or the charges against her, and had not been informed of any complaints or reports that would have allowed her to present a rebuttal or evidence against them. It is also argued that the presumed victim had only been notified verbally of the non-ratification, and this had impaired her right of defense before the appellate bodies because she was unaware of the reasons why the pertinent organ had decided not to ratify her. In addition, it is alleged that during the processing of both the appeal for review and the application for amparo, the competent authorities had not allowed the victim to access the ratification file that could have revealed details of the reasons and evidence presented against her that led to her non-ratification, so that she could have contested them with her arguments or presented rebuttal evidence.

### 2. Case of the Former Employees of the Judiciary v. Guatemala

**On February 27, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the presumed dismissal of 93 employees of the Guatemala Judiciary as a result of a 1996 strike. On May 13, 1966, after it had allegedly been declared that the strike was illegal, the First Chamber of the Labor and Social Welfare Appellate Court supposedly established a period of 20 days for the Judiciary to terminate the employment contracts of the employees who had presumably gone on strike. It is alleged that, on September 1, 1999, the Supreme Court of Justice executed the dismissals of 404 employees, including the presumed victims. It is alleged that they had not been subject to an administrative procedure prior to being dismissed and, consequently, that they had not been notified of the opening of the disciplinary procedure against them and had not had the opportunity to defend themselves in this regard.

### 3. Case of the Maya Kaqchikuel Indigenous Peoples of Sumpango et al. v. Guatemala

On April 3, 2020, the Inter-American Commission submitted this case to the Court. It relates to the alleged impossibility of four community radio stations operated by indigenous peoples in Guatemala (the Maya Kaqchikuel of Sumpango, the Achí Maya of San Miguel Chicaj, the Mam Maya of Cajolá and the Maya of Todos Santos de Cuchumatán) to freely exercise their right to freedom of expression and their cultural rights owing to the existence in Guatemala of legal obstacles to access radio frequencies and a supposed policy of the criminalization of community radio stations operated without authorization. The case also relates to the alleged failure to grant legal recognition to the community media and to the supposed persistence of discriminatory rules regulating broadcasting. It is alleged that domestic laws, ratified by the Guatemalan Constitutional Court, and the failure to adopt affirmative measures to ensure that indigenous peoples can accede, in equal conditions, to broadcasting frequencies, could constitute violations of the rights to freedom of expression, to equality before the law, and to cultural rights.

### 4. Case of Willer et al. v. Haiti

On **May 19, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the State's alleged international responsibility for failing to protect the rights of Baptiste Willer and his family from presumed threats and attempts on their life between 2007 and 2009. The case also relates to the alleged lack of due diligence in the investigation, as well as to the impunity surrounding the death of the presumed victim's brother. It is argued that the facts occurred in a context of threats and harassment by gang members who acted with impunity. The presumed victim had alerted the authorities that his life and that of his family was in danger and had asked for the help of the courts in a letter addressed to several authorities with information on the identity of the suspects and the type of threats and harassment of which he was a victim. It is argued that, in the absence of any type of protection, assistance or response from the State. Baptiste Willer, his wife and underage children were forced to displace continually and endured a permanent feeling of insecurity.

### 5. Case of Maidanik et al. v. Uruguay

On **May 24, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the presumed forced disappearance of Luis Eduardo González and of Osear Tassino Asteazu, as well as to the presumed extrajudicial execution of Diana Maidanik, Laura Raggio Odizzio and Silvia Reyes in the context of the civil-military dictatorship in Uruguay, during which state agents committed egregious human rights violations. It is alleged that the State had violated the right to recognition of legal personality, life, personal integrity and personal liberty. It is also argued that the application of the Law on the Expiry of the Punitive Claims of the State had constituted an obstacle to the investigation of the facts at various times, because it had had the apparent effect of ensuring impunity, thus violating judicial guarantees and judicial protection. Lastly, it is alleged that the failure to clarify what happened had entailed a violation of the right to personal integrity of the family members as a result of the pain, anguish and uncertainty, aggravated owing to the severity of the violations.

### 6. Case of Cortez Espinoza v. Ecuador

On **June 14, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the presumed illegal and arbitrary nature of three detentions of the retired soldier, Gonzalo Cortez Espinoza, in 1997 and 2000, as well as the presumed violations of his physical integrity and of due process during criminal proceedings against him for "property offenses".

### 7. Case of Casierra Quiñonez et al. v. Ecuador

On **June 19, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the death of Luis Eduardo and the injuries to Andrés Alejandro, both with the last names Casierra Quiñonez, presumably at the hands of agents of the Navy of the Republic of Ecuador in December 1999. Violations of the rights to life and personal integrity of Luis Eduardo and of the right to personal integrity of Andrés Alejandro are alleged because the State had failed to provide a satisfactory explanation about the use of lethal force based on an independent and impartial investigation conducted with due diligence. In addition, it is argued that the purpose of the force used by the State was not lawful and had been unnecessary and disproportionate. Likewise, it is alleged that, since the case related to presumed human rights violations, the facts could not be considered as possible "offenses committed in the line of duty," and therefore the investigation should have been conducted in the ordinary Jurisdiction. Therefore, it is alleged that the State had violated the rights to judicial guarantees and to judicial protection.

### 8. Case of Members of the "José Alvear Restrepo" Lawyers Collective v. Colombia

On **July 8, 2020**, the Inter-American Commission submitted this case to the Court. It relates to alleged acts of violence, intimidation, harassment and threats against the members of the "José Alvear Restrepo" Lawyers Collective (CAJAR) from the 1990s to the present time linked to their activities defending human rights. It is alleged that members of CAJAR had been victims of numerous incidents of threats, harassment and stalking in different places by individuals whose identity has not been determined in order to establish whether or not they were state agents. However, it is

argued that the State had carried out various actions that had made a substantive contribution to the acts of violence, such as arbitrary intelligence work, and stigmatizing declarations by senior officials.

### 9. Case of Benites Cabrera et al. v. Peru

On **July 17, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged violations of the right to judicial guarantees, judicial protection and work contained in the American Convention on Human Rights, in relation to the obligations established in Articles 1(1) and 2 of this instrument, to the detriment of 192 presumed victims, who were allegedly dismissed from the Congress of the Republic of Peru in the context of a program of "staff rationalization" implemented during Alberto Fujimori's presidency. It is alleged that the presumed victims had been subject to the regulations of article 9 of Decree Law No. 26540 and Resolution No. 1239-A-92-CACL, which established the prohibition to file applications for amparo or administrative actions to contest the dismissals.

### 10. Case of Angulo Losada v. Bolivia

On **July 17, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged responsibility of the State for the violation of its obligation to ensure, without discrimination based on gender and age, the right of access to justice in response to the sexual violence presumably suffered by Brisa Liliana De Angulo Losada at the hands of her 26-year old cousin when she was 16 years of age. The case also relates to the alleged violation of Brisa De Angulo Losada's rights to personal integrity and privacy. It is alleged that the Public Prosecution Service had failed to conduct a diligent investigation, with enhanced due diligence, aimed at determining the truth about the allegations of abuse, sexual violence and rape, and had not prosecuted the criminal proceedings appropriately based on the available evidence. Consequently, the presumed victim had not had a suitable remedy and had been a victim of discrimination in access to justice based on her gender and age. It is argued that the criminal proceedings had not been decided within a reasonable time, because more than 18 years after the events, no final judgment had been issued.

### 11. Case of Moya Chacón et al. v. Costa Rica

On **August 5, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the imposing of a measure of subsequent liability against the journalists Ronald Moya Chacón and Freddy Parrales Chaves for the publication, on December 17, 2005, of an article in the newspaper "La Nación" in which they reported on presumed irregularities in the control of the importation of wines and spirits into Costa Rica at the Panamanian border. One of the police agents involved in the investigation filed a complaint against the journalists for the offense of slander and "defamation by the press" and also a civil action seeking reparation, alleging that the information published was false. Although the journalists did not receive criminal convictions for committing an offense due to the absence of malice, they were sentenced to pay five million colones as civil compensation for non-pecuniary damage. It is alleged that article 145 of the Criminal Code and article 7 of the Printed Material Act, which established the offense of "defamation by the press" were incompatible with the principle of strict legality in criminal matters and the right to freedom of expression, because they did not establish clear parameters that allowed the prohibited conduct and its elements to be predicted.

### 12. Case of the Maya Q'eqchi' Indigenous Community of Agua Caliente v. Guatemala

On **August 7, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the presumed international responsibility of the State owing to the supposed absence of domestic legislation to guarantee the right to collective property of the Maya Q'eqchi' community, the granting and establishment of a mining project on their territory, and the absence of adequate and effective remedies to claim the protection of their rights. It is alleged that the Agua Caliente community does not have a title to collective ownership of their ancestral lands and territories despite numerous steps taken by the community over more than 40 years. It is also alleged that there have been numerous omissions and irregularities in the processing of the community's application to be granted a title of collective ownership, and that there are no domestic mechanisms to gives effect to the collective nature of indigenous

lands and territories.

### 13. Case of Movilla Galarcio v. Colombia

On **August 10, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the supposed forced disappearance, on May 13, 1993, of Pedro Julio Movilla, labor leader, member of the leftist political party, PCC-ML, and Colombian social activist, It is alleged that numerous evidentiary, circumstantial and contextual elements exist to attribute the victim's disappearance to the State. Following the news of his disappearance, it is alleged that there had been a rushed denial of the application for habeas corpus filed to find him, which resulted in a refusal to determine the presumed victim's detention and fate. It is argued that, to date, his fate or whereabouts are unknown.

### 14. Case of Baraona Bray v. Chile

On **August 11, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged human rights violations committed during the criminal proceedings against Carlos Baraona Bray, a lawyer and environmental activist, who had given a series of interviews and made statements in which he maintained that a senator of the Republic had exerted pressure and used his influence so that the authorities had carried out unlawful felling of alerce, a centuries-old tree, protected in Chile. The criminal proceedings filed by the senator had culminated in a sentence of 300 days' suspended imprisonment, a fine, and an additional penalty of disqualification from public post or office for the duration of the sentence, for the offense of "serious defamation." It is alleged that the laws penalizing serious defamation and the criminal punishment do not comply with the requirement of strict legality in criminal matters and the right to freedom of expression. In addition, it is argued that there was no essential social interest that justified using a criminal mechanism to punish statements of public interest in cases such as this one.

### 15. Case of the Garifuna Community of San Juan and its members v. Honduras

On **August 12, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of the State for the presumed failure to protect the ancestral lands of the Garifuna communities of San Juan and Tornabé, as well as the presumed threats against several of their leaders. It is argued that it is an uncontested fact that the Garifuna community of San Juan does not have a collective property title that recognizes all of its ancestral lands and territories. It is alleged that this has prevented the community from peacefully using and enjoying its lands. In addition, in a presumed context of lack of legal certainty regarding their ancestral territories, it is argued that land titles had been granted to third parties outside the community; hotel projects had been approved and were operating; the urban area of the municipality of Tela had been expanded, and a national park had been created in the territory claimed by the community. In addition, it is argued that the presumed lack of prior consultation regarding the granting of licenses for tourism projects on part of the lands and territories claimed by the community, as well as the supposed lack of a legal framework that would allow for the implementation of consultations, violated the rights of the community to collective property, to access to information, and to participate in matters likely to affect them.

### 16. Case of Deras García et al. v. Honduras

On **August 20, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of the State of Honduras for the supposed extrajudicial execution of Herminio Deras García, teacher, leader of the Communist Party of Honduras and adviser to several trade unions of the northern coast of Honduras, as well as the supposed threats, unlawful detentions and acts of torture against members of his family. These acts had taken place in a context of gross human rights violations in Honduras during the 1980s. It is alleged that, owing to Mr. Deras García's political and trade union activities, he was detained by state agents in January 1983 and subsequently executed in his vehicle. It is therefore argued that his right to life was violated. It is alleged that the presumed extrajudicial execution also violated his rights to freedom of expression and association. Lastly, it is alleged that the State of Honduras had violated the rights to judicial guarantees and judicial protection owing to the lack of due diligence and the failure to respect a reasonable time in the criminal proceedings instituted to examine the supposed

execution.

### 17. Case of the Tagaeri and Taromenane Indigenous Peoples v. Ecuador

On **September 20, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the presumed international responsibility of the State of Ecuador for a series of alleged violations of the rights of the Tagaeri and Taromenane indigenous peoples and their members in the context of projects that would presumably have an impact on their territories, natural resources and way of life. The case also refers to violent deaths of members of these peoples in 2003, 2006 and 2013, as well as the alleged lack of adequate protection for two Taromenane girls following the 2013 events. The Tagaeri and Taromenane are indigenous peoples in voluntary isolation (IPVI) who have chosen to live without contact with the majority population. In addition, they are known as ecosystemic peoples because they live in strict dependence on their ecological environment. It is alleged that, owing to this strict dependence on the ecosystem, any change in the natural habitat may harm both the physical survival of their members and also the survival of the group as an indigenous people.

### 18. Case of the U'wa Indigenous People v. Colombia

On **October 21, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of Colombia for the presumed lack of effective protection of the right to ancestral property of the U'wa people, as well as the implementation of a series of oil, mining, tourism and infrastructure activities that have violated their rights. It is alleged that the U'wa people have been severely affected by the internal armed conflict in Colombia which has placed them in a situation of extreme vulnerability, to the point of being in danger of extinction. It is alleged that the U'wa people have been unable to use or enjoy their lands peacefully. It is also alleged that the failure to title their lands promptly and completely, as well as the delays in removing non-indigenous occupants from the territory of the U'wa people, and the State's failure to ensure their peaceful ownership and possession of this territory, are contrary to the obligation to provide effective protection to the right to collective property, with the legal certainty necessary to ensure real protection of the right to property, as well as its peaceful and exclusively indigenous possession. It is also argued that the State has not complied with the right to free and informed prior consultation when granting permits, licenses and concessions to implement oil, mining and infrastructure projects on the lands of the U'wa people or in areas adjacent to them that could affect their lands, territories and way of life. It is also alleged that the Colombian State had not obtained the consent of the U'wa people even though several of the projects could be considered large-scale investment projects with a very severe impact on the survival of the people.

### 19. Case of Mina Cuero v. Ecuador

On **October 26, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of the Republic of Ecuador for the presumed violation of various rights committed during the disciplinary procedure that culminated in the dismissal of Víctor Henry Mina Cuero as a member of the National Police. It is alleged that the facts of the case occurred between September 2000 and August 2001. It is argued that the State violated Mr. Mina Cuero's rights to prior notification in detail of the charges against him, to adequate time and means for the preparation of his defense, and to be assisted by legal counsel of his own choosing. In addition, Mr. Mina Cuero had made his statement before the Judicial Police without legal assistance. It is also argued that the State violated the principle of the presumption of innocence because the decision to penalize him took into account certain background information about the presumed victim, such as the fact that he had been prosecuted for homicide in proceedings that ended in dismissal and had been decommissioned from the Police on two occasions, both times revoked by the Constitutional Court.

### 20. Case of Aroca Palma et al. v. Ecuador

On **November 6, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of the Republic of Ecuador for the presumed unlawful and arbitrary detention and subsequent extrajudicial execution of Joffre Antonio Aroca Palma, as well as for the situation of impunity in which the facts remain. In this regard, it is argued that there is no dispute that Mr. Aroca Palma died on February 27, 2001, from a shot fired by an on-duty police officer. The State had failed to provide an explanation that would allow it to be

considered that his death constituted a legitimate use of force. To the contrary, the State had acknowledged that the police officer fired the shot, and the respective investigation was initiated culminating in a conviction in the police Jurisdiction. It is argued that the use of lethal force was unjustified, unnecessary, disproportionate and lacking a legitimate purpose; it therefore constituted an extrajudicial execution and, consequently, a violation of the right to life.

### 21. Case of Members of the Unified Workers Union of Ecasa (SUTECASA) v. Peru

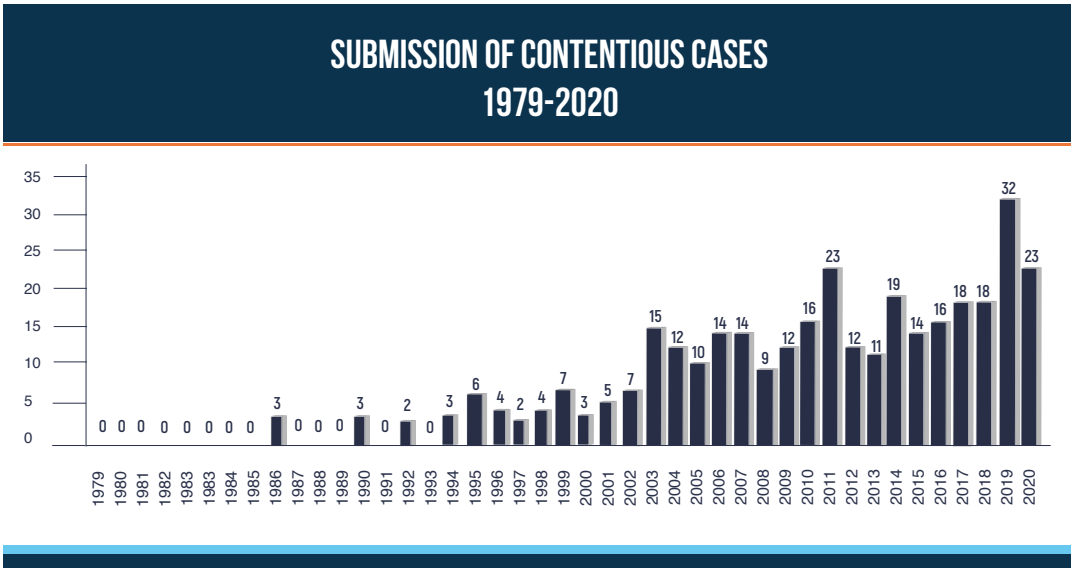
On **November 16, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged failure to comply with judicial rulings issued in favor of members of the Unified Workers Union of ECASA (SUTECASA). It is alleged that, in the context of the process of privatizing state-owned companies in 1991, the Peruvian Government liquidated the Empresa Comercializadora de Alimentos S.A. (ECASA), which resulted in the dismissal of more than three thousand workers. Also, by Supreme Decrees Nos. 057-90-TR and 107-90-PCM, the Government suspended the salary increases established by the collective bargaining agreements. In the face of this situation, the members of SUTECASA filed an action for amparo. It is argued that, after passing through several instances, the amparo proceedings culminated on February 16, 1993, with a ruling by the Supreme Court of Justice that Supreme Decrees Nos. 57-90-TR and 107-90-PCM were inapplicable. The Constitutional Court then ordered the execution of this ruling. It is alleged that, subsequently, a process of execution of judgment began that remains ongoing after more than 26 years despite the different measures taken.

### 22. Case of Hendrix v. Guatemala

On **November 25, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged violation of several rights recognized in the American Convention as a result of administrative decisions and a judicial decision that prevented Steven Edward Hendrix from exercising the profession of notary, even though he had the respective university degree obtained in Guatemala, because he was not a Guatemalan national. It is alleged that a restriction and a differentiated treatment were imposed on Mr. Hendrix that, although established in the Notarial Code, were incompatible with the American Convention.

### 23. Case of Sales Pimenta v. Brazil

On **December 4, 2020**, the Inter-American Commission submitted this case to the Court. It relates to the alleged international responsibility of the State for the situation of impunity of the facts related to the death of Gabriel Sales Pimenta, lawyer for the Marabá Rural Workers Union, Brazil. As a result of his work, he had received several death threats and had therefore, on numerous occasions, requested the protection of the state through the Secretariat of Public Security of Belém, in the state of Pará. He was assassinated on July 18, 1982. His death supposedly occurred in a context of violence related to the demands for land and agrarian reform in Brazil. It is also alleged that the investigation into the facts related to the death of Gabriel Sales Pimenta which ended in 2006 with a statute of limitations decision was characterized by the state's omissions. It is argued that the authorities did not act with due diligence or within a reasonable time. It is also alleged that the State violated the right to freedom of association, because the defense of rural workers' rights resulted in retaliation against Mr. Sales Pimenta.




As of December 31, 2020, the Court had 48 cases to resolve:

| No. | Name of case | Date submitted |
|---|---|---|
| 1 | Members and Activists of the Patriotic Union v. Colombia | 29-06-2018 |
| 2 | Flores Bedregal *et al.* v. Bolivia | 18 -10-2018 |
| 3 | Hernández *et al.* v. Honduras | 30-04-2019 |
| 4 | Lemoth Morris *et al.* v. Honduras | 24-05-2019 |
| 5 | Guerrero *et al.* v. Venezuela | 24-05-2019 |
| 6 | Massacre of the village of Los Josefinos v. Guatemala | 10-07-2019 |
| 7 | Guachalá Chimbos *et al.* v. Ecuador | 11-07-2019 |
| 8 | Barbosa de Souza *et al.* v. Brazil | 11-07-2019 |
| 9 | Bedoya Lima *et al.* v. Colombia | 16-07-2019 |
| 10 | Grijalva Bueno v. Ecuador | 25-07-2019 |
| 11 | Garzón Guzmán v. Ecuador | 26-07-2019 |
| 12 | National Federation of Maritime and Port Workers (FEMAPOR) v. Peru | 26-07-2019 |
| 13 | Manuela *et al.* v. El Salvador | 29-07-2019 |
| 14 | Casa Nina v. Peru | 06-08-2019 |
| 15 | Cuya Lavy *et al.* v. Peru | 06-08-2019 |
| 16 | González *et al.* v. Venezuela | 08-08-2019 |
| 17 | Cordero Bernal v. Peru | 16-08-2019 |
| 18 | Vera Rojas v. Chile | 06-09-2019 |
| 19 | Pavez v. Chile | 11-09-2019 |
| 20 | Villarroel Merino *et al.* v. Ecuador | 13-09-2019 |

| | | |
|---|---|---|
| 21 | Ochoa *et al.* v. Mexico | 02-10-2019 |
| 22 | Ríos Ávalos *et al.* v. Paraguay | 30-10-2019 |
| 23 | Urrutia *et al.* v. Ecuador | 16-10-2019 |
| 24 | Julien Grisonas *et al.* v. Argentina | 04-12-2019 |
| 25 | Teachers of Chañaral and other municipalities v. Chile | 13-12-2019 |
| 26 | Moya Solís v. Peru | 09-01-2020 |
| 27 | Former Judiciary Employees v. Guatemala | 27-02-2020 |
| 28 | Maya Kaqchikuel Indigenous Peoples of Sumpango *et al.* v. Guatemala | 03-04-2020 |
| 29 | Willer *et al.* v. Haiti | 19-05-2020 |
| 30 | Maidanik *et al.* v. Uruguay | 24-05-2020 |
| 31 | Cortez Espinoza v. Ecuador | 14-06-2020 |
| 32 | Casierra Quiñonez *et al.* v. Ecuador | 19-06-2020 |
| 33 | Member of the "José Alvear Restrepo" Lawyers Collective v. Colombia | 08-07-2020 |
| 34 | Benites Cabrera *et al.* v. Peru | 17-07-2020 |
| 35 | Case of Angulo Losada v. Bolivia | 17-07-2020 |
| 36 | Moya Chacón *et al.* v. Costa Rica | 05-08-2020 |
| 37 | Maya Q'eqchi' Indigenous Community of Agua Caliente v. Guatemala | 07-08-2020 |
| 38 | Movilla Galarcio v. Colombia | 10-08-2020 |
| 39 | San Juan Garifuna Community and its members v. Honduras | 11-08-2020 |
| 40 | Deras García *et al.* v. Honduras | 12-08-2020 |
| 41 | Tagaeri and Taromenane Indigenous Peoples v. Ecuador | 20-08-2020 |
| 42 | Pueblo Indígena U'wa Indigenous People v. Colombia | 30-09-2020 |
| 43 | Mina Cuero v. Ecuador | 21-10-2020 |
| 44 | Aroca Palma *et al.* v. Ecuador | 26-10-2020 |
| 45 | Members of the Unified Workers Union of Ecasa (SUTECASA) v. Peru | 06-11-2020 |
| 46 | Hendrix v. Guatemala | 16-11-2020 |
| 47 | Sales Pimenta v. Brazil | 25-11-2020 |
| 48 | San Juan Garifuna Community and its members v. Honduras | 07-12-2020 |

## B. Hearings

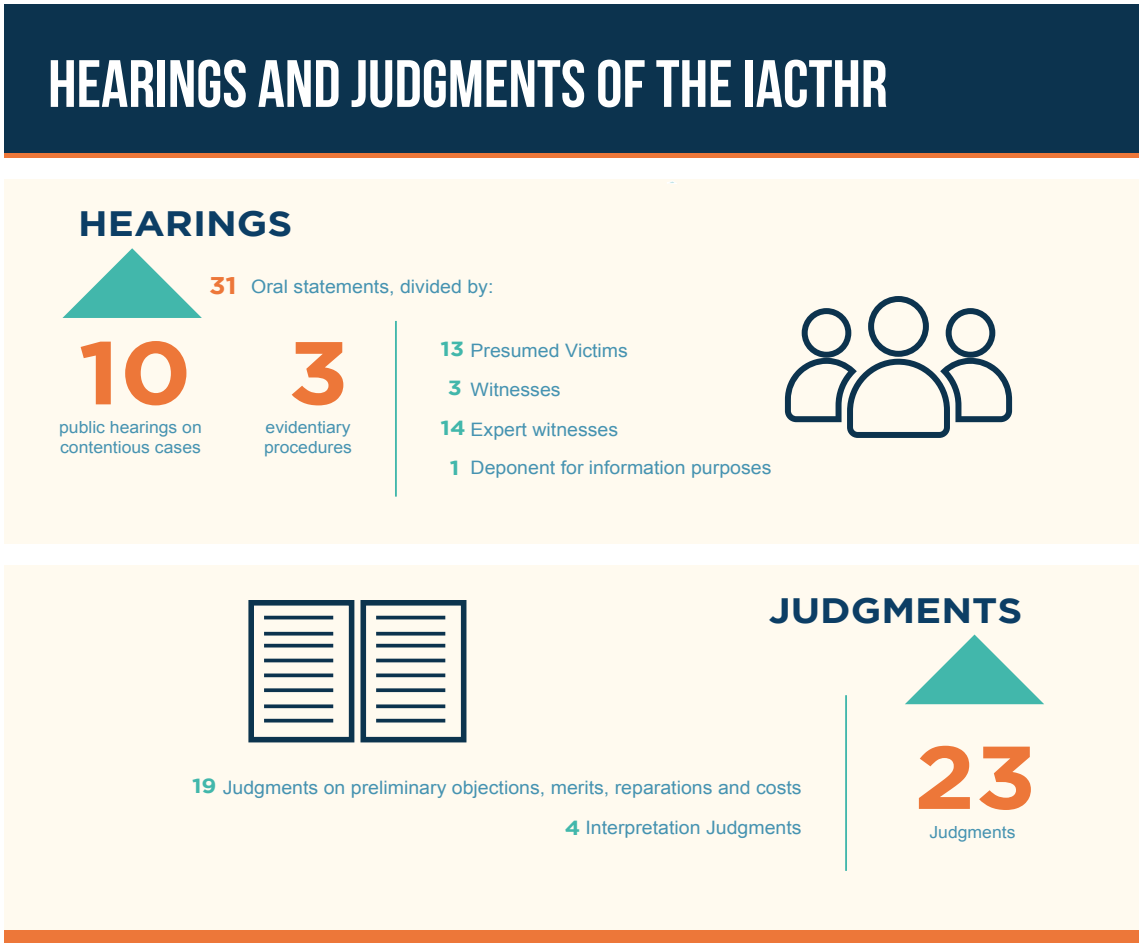
In 2020, the Court held 10 public hearings and 3 evidentiary procedures in contentious cases. It received the oral statements of 13 presumed victims, 3 witnesses, 14 expert witnesses, and 1 deponent for information purposes, for a total of 31 statements.

The hearings are livestreamed on the different social networks: Facebook, Twitter (@CorteIDH for the account in Spanish and @IACourtHR for the account in English), Flickr, Instagram, Vimeo, Youtube Linkedin and Soundcloud.

## C. Judgments

During 2000, the Court issued 23 judgments of which 19 related to preliminary objections, merits, reparations and costs, and four to interpretation.

All the judgments can be found on the Court's website here.



## C.1. Judgments in contentious cases

### Case of Montesinos Mejía v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of January 27, 2020.

**Summary:** This case was submitted by the Inter-American Commission on April 18, 2018, and relates to the human rights violations suffered by Mario Montesinos following his arrest by police agents in Quito, Ecuador, without a court order on June 21, 1992, and the subsequent ill-treatment he endured during his detention.

**Ruling:** The Court declared that the State of Ecuador was internationally responsible for the violation of the rights to personal liberty, the presumption of innocence and judicial protection of Mario Alfonso Montesinos Mejía. In addition, the Court declared that the State was responsible for violating his right to personal integrity, as well as the right to judicial guarantees.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Carranza Alarcón v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 3, 2020.

**Summary**: This case was submitted by the Inter-American Commission on March 29, 2018, and relates to the arbitrary measures suffered by Ramón Rosendo Carranza Alarcón following his detention in November 1994, after a Rural Police Chief had declared him a fugitive from justice in connection with an incident in which a man lost his life. Mr. Carranza was arrested, denied his connection to the incident, but was placed in preventive detention. Subsequently, there were several unjustified delays in the criminal proceedings, while Mr. Carranza remained in preventive detention.

**Ruling:** The Court declared the State of Ecuador internationally responsible for the violation of Ramón Rosendo Carranza Alarcón's rights owing to: (i) the arbitrary nature of his preventive detention; (ii) the unreasonable length of his preventive detention; (iii) the violation of the presumption of innocence, and (iv) the violation of judicial guarantees.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020.

**Summary:** This case was submitted by the Inter-American Commission on February 1, 2018, and relates to the claim for recognition of ownership of their lands in the province of Salta (on the border with Paraguay and Bolivia) of the indigenous communities members of the Wichí (Mataco), Iyjwaja (Chorote), Komlek (Toba), Niwackle (Chulupí) and Tapy'y (Tapiete) peoples. These lands had also been occupied by non-indigenous persons, and an international bridge had been built without the State conducting a prior consultation.

**Ruling:** The Court declared the international responsibility of the State of Argentina for the violation of the rights to communal property, cultural identity, a healthy environment, adequate food, and water of the indigenous communities. For the first time in a contentious case, the Court examined the rights to a health environment, to adequate food, to water and to cultural identity autonomously based on Article 26 of the American Convention, ordering specific measures of reparation for the restoration of those rights, including actions to provide access to water and food, for the restoration of forestry resources, and for the recovery of the indigenous culture.

The judgment can be found here and the official summary here.

### Case of Noguera et al. v. Paraguay. Merits, reparations and costs. Judgment of March 9, 2020.

**Summary:** This case was submitted by the Inter-American Commission on July 2, 2018, and relates to events that took place on January 11, 1996, in the CIMEFOR Third Company in Mariscal Estigarribia, in the Paraguayan Chaco.

While in his second year of military service, Vicente Noguera was found dead in bed at 5 a.m. that day. Based on the investigations, forensic examinations and autopsies that were conducted, it was established that the cause of death was an infection of an interstitial pneumonitis type.

**Ruling:** The Court declared that the State of Paraguay was internationally responsible for the violation of the rights to life and integrity, and the rights of the child of Vicente Noguera, who was 17 years of age at the time, because the authorities failed to clarify the circumstances that led to his death in a military establishment, and did not disprove satisfactorily the indications of the possibility of a violent death. This resulted in the violation of Articles 4 (right to life), 5 (right to humane treatment) and 19 (rights of the child) established in the American Convention on Human Rights.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020.

**Summary:** This case was submitted by the Inter-American Commission on August 22, 2018, and relates to the aggression suffered by Azul Rojas Marín when, on February 25, 2008, she was detained without any reason by police officers who beat her and, because she as an LGBTI person, yelled at her and insulted her. Then, in the Casa Grande police station, she was forcibly undressed, beaten several times, tortured and raped. The complaints filed by the victim before Peruvian justice in order to elucidate the facts were unsuccessful.

**Ruling:** The Court declared that the Republic of Peru was internationally responsible for the violation of the rights of Azul Rojas Marín to personal liberty and integrity, to privacy, not to be subjected to torture, to judicial guarantees and to judicial protection, in relation to the obligations to respect and ensure these rights without discrimination, and to adopt domestic legal provisions. The Court also declared that the State was responsible for the violation of the right to personal integrity of Azul Rojas Marín's mother, Juan Rosa Tanta Marín.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020.

**Summary:** This case was submitted by the Inter-American Commission on April 24, 2019, and relates to the Roche Azaña brothers. On April 14, 1996, while passing through Nicaragua together with another 30 migrants on the way to the United States of America, the truck in which they were travelling was ordered to stop; the driver refused to stop and several officers fired against the truck. At least six people were injured, including the Roche Azaña brothers. Pedro Bacilio Roche Azaña was hit in the head by a bullet, and this led to his death at around midnight on April 15, 1996. His brother, Patricio Fernando was hit twice, one bullet fractured his right hip and the other entered his right thigh. He was hospitalized on April 15, 1996, and remained in a coma for two months.

**Ruling:** The Court declared the State of Nicaragua international responsible for: (i) the death of Pedro Bacilio Roche Azaña and the injuries caused to his brother, Patricio Fernando Roche Azaña, as a result of the shots fired at the truck in which they were travelling by state agents, and (ii) the violation of judicial guarantees and the right to judicial protection of Patricio Fernando Roche Azaña and of his parents.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs. Judgment of June 9, 2020.

**Summary:** This case was submitted by the Inter-American Commission on January 23, 2019, and relates to the events that occurred to Victorio Spoltore who worked in a private company and suffered two heart attacks, owing to which he was diagnosed with a disability of 70%. Subsequently, he filed a labor complaint "for compensation based on a professional illness" against his employer, and the resulting proceedings extended over a long period.

**Ruling:** The Court declared the State of Argentina internationally responsible for the violation of the right to judicial guarantees and judicial protection, and the right to just and satisfactory working conditions that would ensure the health of Victorio Spoltore, because he was not guaranteed access to justice when seeking compensation for a possible professional illness. Consequently, the Court concluded that Argentina was responsible for the violation of Articles 8(1) and 25, in relation to Article 1(1) of the Convention and of Article 26, in relation to Articles 8, 25 and 1(1) of this instrument, to the detriment of Victorio Spoltore.

The judgment can be found here (Only in Spanish) and the official summary here. (Only in Spanish).

### Case of Rico v. Argentina. Preliminary objection and merits. Judgment of September 2, 2019.

**Summary:** This case was submitted by the Inter-American Commission on November 10, 2017, and relates to the alleged international responsibility of the State for the dismissal of Eduardo Rico as a judge of Labor Court No. 6 of the Judicial Department of San Isidro in Argentina.

**Ruling:** The Court declared that the State of Argentina was not responsible for violating the judicial guarantees (Article 8 of the American Convention), the principle of legality (Article 9 of the American Convention), the political rights (Article 23 of the American Convention) and the right to judicial protection (Article 25 of the American Convention) of Mr. Rico during the proceedings to dismiss him from his post as a labor judge which had been conducted in front of a trial jury, and owing to the appeals against this decision filed before the Supreme Court of Justice of Buenos Aires and before the Supreme Court of Justice of the Nation.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020.

**Summary:** This case was submitted by the Inter-American Commission on February 7, 2019, and relates to facts that occurred in 2001, when Paola was 14 years of age and in second year of basic education. The Assistant Principal of the college offered to ensure that she would continue on to the third and fourth year on condition that she had sexual relations with him, a situation that continued for more than a year. Some of the college staff were aware of what was happening. On December 11, 2002, the Inspector of Paola's course summoned her mother to come to the college the following day. On Thursday, December 12, 2002, the day of the summons, Paola swallowed some pills that contained white phosphorus. Then she went to the college and told her companions what she had done. In the college they transferred her to the infirmary, where they urged her to pray. Her mother was contacted and was able to arrive at the college some time later. She transferred her daughter by taxi to a hospital and, subsequently, to a clinic. Paola died on December 13, 2002.

**Ruling:** This was the first case that the Inter-American Court has heard on sexual violence against a child in an educational environment. The Court declared the international responsibility of the State of Ecuador for the sexual violence suffered by the adolescent, Paola del Rosario Guzmán Albarracín, committed by the Assistant Principal of the college she attended that was part of the State's educational system, and that resulted in her suicide, and also for other human rights violations linked to this.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020.

**Summary:** This case was submitted by the Inter-American Commission on August 7, 2018, and relates to the sanction of removal as Mayor of Bogotá, D.C., and disqualification for 15 years from occupying public positions imposed on Mr. Petro Urrego, by the Prosecutor General's Office on December 9, 2013.

**Ruling:** The Court declared the international responsibility of the State of Colombia for the violation of the political rights of Mr. Petro as a result of the disciplinary sanction and disqualification. In addition, the Court concluded that the existence of norms that authorized the Prosecutor General's Office to impose those sanctions on democratically elected officials, as well as sanctions that had the practical effect of producing an inability to exercise political rights as a result of a decision of the Comptroller's Office, constituted a violation of the American Convention on Human Rights. The Court also determined that the disciplinary procedure against Mr. Petro violated the principle of Jurisdiction, the guarantee of impartiality, the principle of presumption of innocence, and the right of defense.
The judgment can be found here and the official summary here (Only in Spanish).

### Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020.

**Summary:** This case was submitted by the Inter-American Commission on September 19, 2018, and relates to events that occurred on December 11, 1998, when there was an explosion in a fireworks factory in the municipality of Santo Antônio de Jesus, in the state of Bahía, in Brazil. The factory consisted of a series of sheds located in fields with some shared work benches. Sixty people died and 6 were injured as a result of the explosion. Among those who died were 59 women – of whom 19 were girls – and one boy child. The survivors consisted of three adult women, two boys and one girl. Four of the women who died were pregnant. None of the survivors received adequate medical care to help them recover from the consequences of the accident.

**Ruling:** The Court declared the international responsibility of the State of Brazil for the violations of the human rights of the 60 people who died and the six who were injured as a result of the explosion of the fireworks factory. In addition, it established the State's responsibility for the suffering caused to 100 next of kin of those who died and those who were injured in the explosion. In this case, the Court declared the violation of the rights to life and to personal integrity, and of the economic, social, cultural and environmental rights in relation to just and satisfactory working conditions, the rights of the child, and to equality and non-discrimination, to judicial protection and to judicial guarantees.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Valle Ambrosio et al. v. Argentina. Merits and reparations. Judgment of July 20, 2020.

**Summary:** This case was submitted by the Inter-American Commission on September 4, 2018, and relates to events that occurred on December 23, 1997, when the Ninth Criminal Chamber of Córdoba sentenced Messrs. Valle Ambrosio and Domínguez Linares to three years and six months' imprisonment for committing the offense of "aggravated fraud due to fraudulent administration." Both victims filed a remedy of cassation, which was rejected *"in limine."*

**Ruling:** The Court declared the responsibility of the State of Argentina for the violation of the right to appeal a judgment before a higher court to the detriment of César Ramón del Valle Ambrosio and Carlos Eduardo Domínguez Linares.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020.

**Summary:** This case was submitted by the Inter-American Commission on February 1, 2019. It relates to Mr. Urrutia Laubreaux, who was employed as the guarantee judge of Coquimbo in Chile and presented a final paper for a diploma course in which he proposed that the Judiciary should adopt certain measures of reparation for the responsibility that this institution had incurred in the human rights violations that took place during the Chilean military regime. The Supreme Court forwarded this paper to the competent organ to issue a disciplinary sanction against Mr. Urrutia Laubreaux, because the Supreme Court considered that the paper contained "inappropriate and inacceptable opinions." On March 31, 2005, the La Serena Appellate Court decided to sanction Mr. Urrutia Laubreaux with a disciplinary measure of "written censure." Following an appeal, the Supreme Court confirmed the contested ruling, but

reduced the sentence to a "private reprimand."

**Ruling:** The Court declared the international responsibility of the State of Chile for the violation of the right to freedom of thought and expression, judicial guarantees, and the principle of legality, in relation to the obligation to respect and ensure those rights and the duty to adopt domestic legal provisions to the detriment of Judge Daniel David Urrutia Laubreaux.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Girón et al. v. Guatemala. Preliminary objection, merits reparations and costs. Judgment of October 15, 2019.

**Summary:** This case was submitted by the Inter-American Commission on November 30, 2017, and relates to a supposed series of violations of due process committed during the criminal proceedings against the presumed victims that culminated in imposition of the death penalty and their execution by firing squad, which was televised.

**Ruling:** The Court declared the State of Guatemala responsible for: (a) the death sentence and the execution by firing squad of Roberto Girón and Pedro Castillo Mendoza; (b) subjecting them to "death row" and transmitting their execution by television, and (c) violating the right to judicial guarantees owing to the absence of professional defense counsel at the start of the criminal proceedings and, then, the assignment of law students to defend them. Consequently, the Court concluded that the State was responsible for the violation of the rights recognized in Articles 2, 4(1), 4(2), 5(1), 5(2), 8(2)(d) and 8(2)(e) of the American Convention in relation to Article 1(1) of this instrument to the detriment of Roberto Girón and Pedro Castillo Mendoza.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020.

**Summary**: This case was submitted by the Inter-American Commission on April 18, 2019, and relates to the events that occurred to José Delfín Acosta Martínez, an Argentine national and an Afro-descendant, who was arrested and detained in the early morning hours of April 5, 1996, on leaving a discotheque in the center of the city of Buenos Aires. The police alleged that he was drunk and, therefore, took him with another two Afro-descendants, to a police station. While he was detained he suffered a series of beatings that made it necessary to call an ambulance. Mr. Acosta Martínez died on the way to the hospital.

**Ruling:** The Court declared the international responsibility of the State of Argentina for the violation of the right to life, personal integrity, personal liberty, equality and non-discrimination of José Delfín Acosta Martínez. It also considered that the State was responsible for the violation of the personal integrity, judicial guarantees and judicial protection of the members of his family.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and reparations. Judgment of September 1, 2020.

**Summary:** This case was submitted by the Inter-American Commission on November 14, 2018, and relates to the violations resulting from the unlawful and arbitrary detention of Messrs. Fernández Prieto and Tumbeiro by the Police of the province of Buenos Aires and the Argentine Federal Police respectively, as well as the lack of adequate control by the judicial authorities that heard their cases.

**Ruling:** The Court declared the international responsibility of the State of Argentina for the violation of the rights

to personal liberty, protection of honor and dignity, judicial guarantees and judicial protection of Carlos Alberto Fernández Prieto and Carlos Alejandro Tumbeiro, as well as of the right to equality before the law and the prohibition of discrimination to the detriment of Mr. Tumbeiro.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020.

**Summary:** This case was submitted by the Inter-American Commission on May 21, 2019, and relates to the arbitrary removal of Yenina Esther Martinez Esquivia, who was employed as an Assistant Prosecutor, a position she had held on a provisional basis for more than 12 years. On October 29, 2004, the Prosecutor General issued a resolution declaring her appointment void without providing any reasons.

**Ruling:** The Court declared the international responsibility of the State of Colombia because the removal of Ms. Martínez Esquivia from her post as an Assistant Prosecutor with the criminal courts of the Cartagena Circuit violated the guarantee of job security that should be recognized to prosecutors as agents of justice. In addition, the Court concluded that the removal violated Ms. Martínez Esquivia's right to remain in her post in general conditions of equality. The Court also considered that the State had violated the right to judicial protection because none of the appeals filed by Ms. Martínez Esquivia provided her with an effective remedy to contest the decision that removed her from her position. Lastly, in the context of the remedies filed, the Court considered that the State had violated the guarantee of a reasonable time, because it took almost four years to decide an appeal in the labor Jurisdiction.

The judgment can be found here and the official summary here (Only in Spanish).

### Case of Olivares Muñoz et al. v. Venezuela. Merits, reparations and costs. Judgment of November 10, 2020.

**Summary:** This case was submitted by the Inter-American Commission on April 1, 2019, and relates to an operation carried out by the Venezuelan National Guard in the Villa Hermosa Prison. The officers fired shots at several of the prisoners and kicked them and beat them with different objects including sticks and stones. The operation resulted in the death of seven prisoners and injuries to another 27.

**Ruling:** The Court found Venezuela internationally responsible for the violation of the right to life of seven prisoners who died and of the right to personal integrity of another 27 who were injured as a result of the operation. The Court determined that the deaths and injuries were produced by the use of excessive and disproportionate force by the state agents. It also concluded that, in the investigation that was conducted, the State did not comply with the duty of due diligence and that the facts have never been clarified, those responsible have not been identified, and the victims had not received reparation. Furthermore, the Court determined that the State had failed to open an investigation into the possible perpetration of acts of torture. Lastly, the Court found that the next of kin of those who died had been affected by the suffering and anguish produced by the loss of their loved ones and the failure to elucidate the facts.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Almeida v. Argentina. Merits, reparations and costs. Judgment of November 17, 2020.

**Summary:** This case was submitted by the Inter-American Commission on August 7, 2019, and relates to compensation to Mr. Almeida for his abduction by members of the Argentine Armed Forces and law enforcement personnel on June 4, 1978; for his subsequent time as a detainee-disappeared person in a clandestine camp in Argentina where he was tortured, and for the release under surveillance by the de facto regime to which he was subjected until April 30, 1983. For the purposes of compensation, Mr. Almeida was only compensated for the days he

spent in the clandestine detention camp, but not for the days he was submitted to de facto monitored release.

**Ruling:** The Court accepted the total acknowledgement of responsibility made by Argentina and, consequently, found it responsible for the violation of the rights to judicial guarantees, equality before the law, and judicial protection of Rufino Jorge Almeida.

The judgment can be found here and the official summary here.

### Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020.

**Summary:** This case was submitted by the Inter-American Commission on March 29, 2019, and relates to the detention conditions suffered by José Gregorio Mota Abarullo, Gabriel de Jesús Yáñez Sánchez, Rafael Antonio Parra Herrera, Cristian Arnaldo Molina Córdova y Johan José Correa in the "Monseñor Juan José Bernal" Diagnosis and Treatment Center located in San Félix (the "INAM-San Félix") and their death owing to a fire that occurred on June 30, 2005, in the cell they occupied. The five young men died after they had reached 18 years of age, but they had entered the INAM-San Félix while they were still minors. The case also related to the lack of effective actions to clarify the facts and to determine the corresponding responsibilities, and the violation of the personal integrity of the members of their families.

**Ruling:** The Court declared that Venezuela was internationally responsible for the violation of the rights to life and to personal integrity and the rights of the child of José Gregorio Mota Abarullo, Gabriel de Jesús Yáñez Sánchez, Rafael Antonio Parra Herrera, Cristian Arnaldo Molina Córdova and Johan José Correa.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

### Case of Casa Nina v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 24, 2020. Series C No. 419.

**Summary:** This case was submitted by the Inter-American Commission on August 6, 2019, and relates to the decision to remove Julio Casa Nina from his post as Provisional Assistant Provincial Prosecutor for the Ayacucho Judicial District, in the offices of the Second Provincial Criminal Prosecutor of Huamanga. Mr. Casa Nina had been appointed without any resolution establishing the termination of his appointment as a provisional prosecutor and, therefore, exercised his functions without job security; in other words, without an essential safeguard to guarantee his independence.

**Ruling:** The Court declared Peru internationally responsible for the violation of the rights to judicial guarantees, to remain in a post in equal conditions, to job security, and to judicial protection of Julio Casa Nina.

The judgment can be found here (Only in Spanish) and the official summary here (Only in Spanish).

## C.2. Interpretation judgments

### Case of the National Association of Discharged and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT) v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020.

**Summary:** On January 29, 2020, the representatives of the victims presented a request for interpretation of the judgment of November 21, 2019, with regard to the following: (a) determination of the number of members of the National Association of Discharged and Retired Employees of the National Tax Administration Superintendence who were the beneficiaries of the judgment of the Supreme Court of Justice of the Republic of October 25, 1993; (b) the scope of the decision taken by the Inter-American Court regarding the effective and immediate payment of the concepts pending based on the provisions of the judgment of October 25, 1993, and (c) the scope of the decision regarding the persons to be included on the list that the State must create in order to execute the judgment completely.

Also, on May 22, 2020, the State presented a request for interpretation with regard to the following: (a) the possible effects of the eighth operative paragraph of the Inter-American Court's judgment; (b) the list of other members of ANCEJUB-SUNAT who are not victims in the case; (c) the list of other persons who, while not members of ANCEJUB-SUNAT, are discharged or retired employees of SUNAT, and (d) aspects relating to the right to a pension.

**Ruling:** The Court declared the requests for interpretation presented by the victims' representatives and by the State admissible, and decided to clarify various points of the judgment.

The judgment can be found here (Only in Spanish).

### Case of Rosadio Villavicencio v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020.

**Summary**: On May 25, 2020, the State submitted a request for interpretation of the measure of restitution related to the elimination of the victim's disciplinary sanction and criminal record. Also, on May 25, 2020, the victim presented a request for interpretation relating to a new argument based on supervening acts and evidence.

**Ruling:** The Court declared the requests for interpretation presented by the State and the victim admissible and decided to clarify the measure of reparation relating to annulling the judgments against Mr. Rosadio. The Court indicated that "annulling the guilty verdicts" would mean that they become totally ineffective and that all their negative effects are eliminated, and the State may not file new proceedings against the victim for the facts examined in the judgment, regardless of the mechanism of domestic law used by the State. Lastly, the Court rejected as inadmissible the request for interpretation presented by the victim in relation to alleged exceptional situations, new facts and supervening evidence that would lead to a "request to review" the judgment of October 14, 2019.

The judgment can be found here (Only in Spanish).

### Case of Roche Azaña et al. v. Nicaragua. Interpretation of the judgment on merits and reparations. Judgment of November 18, 2020.

**Summary:** On July 28, 2020, the victims' representative submitted to the Court a request for interpretation of two aspects of the compensation ordered in the chapter on reparations of the judgment, namely: (i) the compensation for loss of earnings corresponding to Patricio Fernando Roche Azaña, and (ii) the specific sum that should be delivered to María Angelita Azaña Tenesaca for loss of earnings. In addition, on August 7, 2020, the State submitted to the Court a request for interpretation concerning: (i) the participation of members of the Nicaraguan Army in the police operation referred to in the proven facts of the judgment, and (ii) the meaning and scope of the eighth operative paragraph of the judgment, ordering the State to create and implement "a training program for members of the Nicaraguan National Police and the Nicaraguan Army on international standards on the use of force, as well as on the international standards for the protection of human rights in a context of migration."

**Ruling:** The Court declared the requests for interpretation presented by the victims' representative and the State admissible and decided to clarify that the State must deliver the total sum of US$50,000.00 (fifty thousand United States dollars) established for the concept of loss of earnings to María Angelita Azaña Tenesaca. Lastly it declared inadmissible: (a) the request for interpretation presented by the victims' representative in the terms of paragraphs 24 to 26 of the interpretation judgment, and (b) the request for interpretation presented by the State, in the terms of paragraphs 30 to 32 of the interpretation judgment.

The judgment can be found here (Only in Spanish).

### Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Interpretation of the judgment on merits, reparations and costs. Judgment of November 24, 2020.

**Summary:** On August 13, 2020, the victims' representatives presented a request for interpretation on the scope of the

fifteenth operative paragraph of the judgment of February 6, 2020, which orders the State to adopt legislative and/or other measures to provide legal certainty to the right to indigenous communal property ownership.

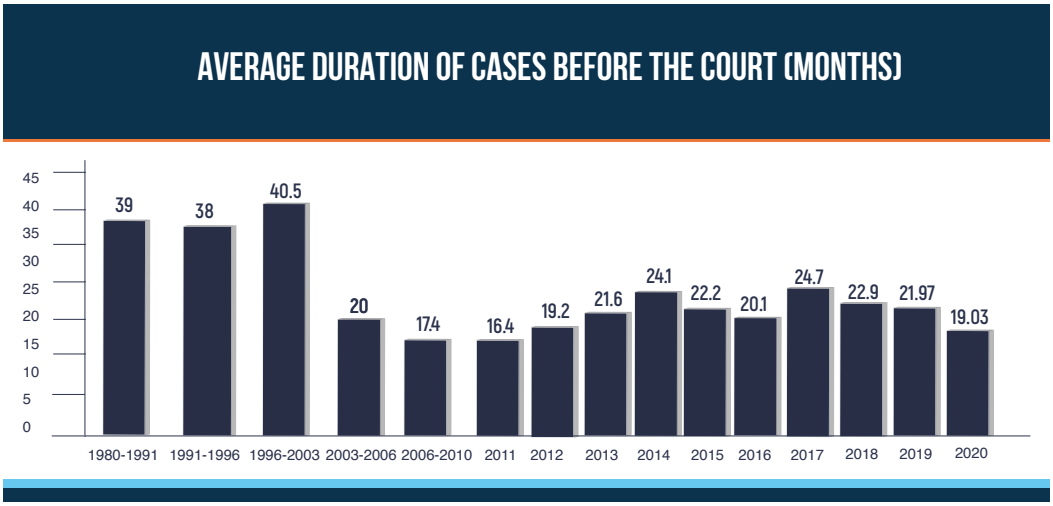
**Ruling:** The Court declared the requests for interpretation presented by the victims' representatives admissible and decided to clarify that the fifteenth operative paragraph of the judgment, concerning the State's obligation to adopt legislative and/or other measures to provide legal certainty to the right to indigenous communal property ownership should include, among the different aspect of this right, prior, free and informed consultation.

The judgment can be found here.

## D. Average time to process cases

Every 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.

E In 2020, the average time required to process cases before the Court was 19.03 months.



# JUDGMENTS ON THE MERITS AND INTERPRETATION IN 2020


## ARGENTINA

- Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400.
- Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs. Judgment of June 9, 2020. Series C No. 404.
- Case of Valle Ambrosio et al. v. Argentina. Merits and reparations. Judgment of July 20, 2020. Series C No. 408.
- Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410.
- Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and reparations. Judgment of September 1, 2020. Series C No.411.
- Case of Almeida v. Argentina. Merits, reparations and costs. Judgment of November 17, 2020. Series C No.416.
- Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Interpretation of the judgment on merits, reparations and costs. Judgment of November 24, 2020. Series C No. 420.

## BRAZIL

- Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No.407.

## CHILE

- Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409

## COLOMBIA

- Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406.
- Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412.

## ECUADOR

- Case of Montesinos Mejía v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of January 27, 2020. Series C No. 398.
- Case of Carranza Alarcón v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 3, 2020. Series C No. 399.
- Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405.

## NICARAGUA

- Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403.
- Case of Roche Azaña et al. v. Nicaragua. Interpretation of the judgment on merits and reparations. Judgment of November 18, 2020. Series C No. 418.

## PARAGUAY

- Case of Noguera et al. v. Paraguay. Merits, reparations and costs. Judgment of March 9, 2020. Series C No. 401.

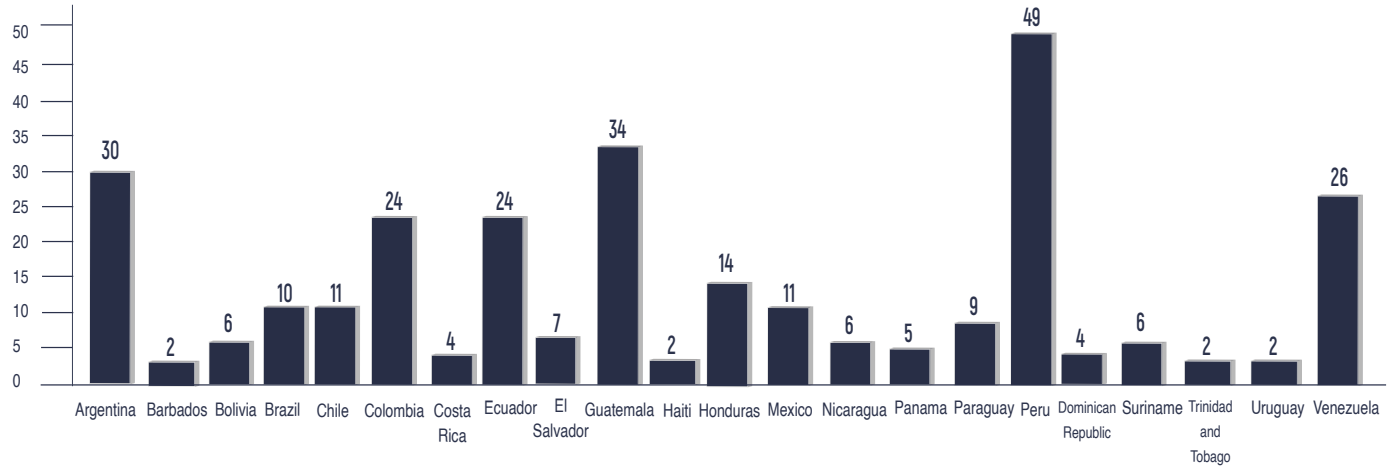
## PERU

- Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402.
- Case of the National Association of Discharged and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT) v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020. Series C No. 413.
- Case of Rosadio Villavicencio v. Peru. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of October 8, 2020. Series C No. 414.
- Case of Casa Nina v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 24, 2020. Series C No. 419.

## VENEZUELA

- Case of Olivares Muñoz et al. v. Venezuela. Merits, reparations and costs. Judgment of November 10, 2020, Series C No. 415.
- Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020, Series C No. 417.

## TOTAL CASES RESOLVED BY STATE AT THE END OF 2020



# Monitoring compliance with judgment

# V. Monitoring compliance with judgment

## 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,[64] and the Court monitors their implementation, rigorously and continually, until every reparation ordered has been fully complied with. 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, **237 cases**[65], are at the stage of monitoring compliance, and this entails monitoring **1,231** 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. Compliance with some measures entails a greater degree of difficulty. 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. Therefore, it is not unusual that, in some cases at the stage of monitoring compliance with judgment, only one measure of reparation is pendingn,[66] while, in others, numerous reparations remain pending implementation. Consequently, despite the fact that, in many cases, numerous measures have been executed, the Court keeps this stage open until it considers that the State has complied fully with the judgment.

In the original judgment the Court requires the State to present an initial report on the implementation of its decisions within one year[67]. It then monitors compliance with the judgment by issuing orders, holding hearings, conducting on-site procedures in the State found responsible, and daily monitoring by means of notes issued by the Court's Secretariat. In 2015, the 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. 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 repercussion on those involved in implementing the measures. This joint specialized monitoring 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 this comprehensively, 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

64 To understand the wide range of measures ordered by the Court, they can be grouped into the following forms of reparation: measures to ensure the right that has been violated to the victims; restitution; rehabilitation; satisfaction; search for the whereabouts and/or identification of remains; guarantees of non-repetition; the obligation to investigate, prosecute and punish, as appropriate, those responsible for the human rights violations; compensation, and reimbursement of costs and expenses.

65 The list of 237 cases at the stage of monitoring compliance includes cases to which the Court had applied Article 65 of the American Convention based on non-compliance by the State and in which the situation has not varied, as well as those in which this article was applied in 2020.

66 At December 2020, in approximately 24% of the cases at the monitoring stage (56 cases), one or two measures of reparation were pending. Most of these refer to reparations that are complex to execute, such as the obligation to investigate, prosecute and punish, as appropriate, those responsible for the human rights violations; the search for the whereabouts and/or identification of remains, or guarantees of non-repetition – fundamentally those related to the adaptation of domestic law to international standards.

67 In addition, in the case of the measures relating to the publication and dissemination of the judgment, the Court may require the State, regardless of the one-year time frame for presenting its first report, to advise the Court immediately when each publication ordered in the respective judgment has been made.

between the parties, and those to which they can give most attention and make most progress.

To provide more information on, and increased visibility to, the status of compliance with the reparations ordered in the judgments delivered by the Inter-American Court, in recent years 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 "Monitoring compliance with judgment", which includes information on this function of the Court. Among others, it includes a link to "Cases closed" owing to compliance with the reparations[68]: https://www.corteidh.or.cr/casos_en_supervision_por_pais_archivados.cfm and another to "Cases at the monitoring compliance stage" https://www.corteidh.or.cr/casos_en_supervision_por_pais.cfm, which includes a chronological table of the judgments delivered, organized by State, with direct links to.

It includes links that direct the user to:

- the judgment establishing reparations;
- the orders issued at the stage of monitoring compliance in each case;
- the "Reparations" column that contains links to the "Reparations declared completed" (differentiating those partially completed from those totally completed) and "Reparations pending compliance;" and
- the column of "public documents pursuant to Court Decision 1/19 of March 11, 2019."

On the last point, it should be mentioned that, since mid-2019, the Court's above-mentioned webpage is publishing the information presented during the stage of monitoring compliance with judgments that relates to the execution of the guarantees of non-repetition ordered in the Court's judgments. In addition, the Court has also decided to publish information on the guarantees of non-repetitio that are presented by "other sources" that are not parties to the international proceedings, or in expert opinions pursuant to the application of Article 69(2) of the Court's Rules of Procedure[69]. This is because the Court adopted **Decision 1/19 on "Clarifications on the publication of information contained in the files of cases at the stage of monitoring compliance with judgment,"** in which it emphasized, among other matters, that compliance with its judgments could benefit from the involvement of organs, human rights organizations, and domestic courts that, with their terms of reference, could require the corresponding public authorities to execute the measures of reparation ordered in the judgments, in particular, the guarantees of non-repetition. To this end, it is essential that the Court provide access to information on the implementation of this type of measure of reparation. The complete text may be accessed here.

During 2020, the Court continued to update the information on this webpage, which allows the different users of the inter-American system to have a simple and flexible tool to consult and to learn about the reparations that the Court is monitoring and those that have already been executed by the States, and to obtain updated information on the implementation status of the guarantees of non-repetition.

Also, in 2020, owing the exceptional circumstances resulting from the COVID-19 pandemic, it was not possible to hold hearings at the Court's seat, or in the territory of the responsible States[70]. Furthermore, it was not possible to travel to the territory of the responsible States to conduct on-site hearings and procedures in order to monitor compliance with judgments on site[71]. The Court hopes to resume this type of presential monitoring activity when the health emergency

68 40 cases had been closed at the end of 2020.

69 Article 69(2) of the Court's Rules of Procedure establishes: "The Court may require relevant information on the case from other sources of information in order to evaluate compliance. To that end, it may also request the expert opinions or reports it considers appropriate."

70 Starting in 2015, the Court initiated the positive initiative of holding hearings in the territory of the responsible States. This type of hearing enabled a greater participation by victims and the different State officials and authorities directly in charge of executing the diverse reparations ordered in the judgments. With the significant collaboration of the States, from 2015 to 2019, the Court held monitoring hearings in Panama, Honduras, Mexico, Guatemala, Paraguay, El Salvador, Argentina and Colombia.

71 Starting in 2015, the Court began to conduct on-site procedures in the context of monitoring compliance with judgment. This type of procedure has the advantage of enabling the Court to observe directly the conditions for the execution of the measures, as well as ensuring increased participation for the victims, their representatives, and the different State officials and authorities directly in charge of executing the diverse reparations ordered in the judgments and a better willingness to make commitments addressed at the prompt execution of the reparations. In addition, it allows for direct and

allows it.

Despite the foregoing, in order to continue its work of monitoring compliance with judgment, the Court used technological methods, as established in its Rules of Procedure, to hold hearings. Accordingly, during 2020, the Inter-American Court held **10 virtual hearings in 12 cases at the stage of monitoring compliance.**

- **9 hearings concerned monitoring compliance with judgments in 11 cases**, and were held in order to receive updated and detailed information from the States concerned on implementation of the measures of reparation ordered, and the observations of the victims' representatives and the Inter-American Commission. These hearings were private, and two of them were held to jointly monitor cases concerning Mexico[72] and Peru[73], while the other seven hearings monitored individual cases concerning Argentina[74], Chile[75], Nicaragua[76], and Peru[77].

- **1 hearing** was held in relation to a request for provisional measures presented in a Panamanian case at the stage of monitoring compliance with judgment[78], in which the Court's President had ordered urgent measures that were subsequently ratified by the Court ordering provisional measures. This was a public hearing.

With regard to orders on monitoring compliance with judgment, during 2020, the Court or its President issued a total of **49 orders**. Of these, **43 orders** were issued by the Court to monitor compliance with judgments delivered in **42 cases**, in order to: assess the 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 of the reparations, all of this in order to ensure full and effective implementation of its decisions. The remaining **6 orders** were issued by the President of the Court declaring compliance with reimbursements to the Victims' Legal Assistance Fund ordered by the Court in its judgments. The orders on monitoring compliance with judgment issued by the Court in 2020 had different contents and purposes:

- To monitor compliance in individual cases of all or several reparations ordered in a judgment[79], including reimbursement of the Victims' Legal Assistance Fund of the Court;

- Jointly supervise the fulfillment of one or more repairs ordered in the same or similar way in the judgments of several cases with respect to the same responsible State, including the reimbursement to the Fund of Legal Assistance for Victims of the Court;

- To close four cases following full compliance with the reparations ordered;

- To rule on eight requests for provisional measures presented in relation to ten cases at the stage of monitoring compliance with judgment, and to monitor the measures of reparation that those requests refer to, and;

- To apply Article 65 of the American Convention to inform the OAS General Assembly of non-compliance of two

immediate communication between the victims and senior State officials so that the latter may immediately commit to taking specific steps to make progress in executing the measures and the victims' opinion on the progress and shortcomings identified can be heard. Since this process was initiated in 2015, and up until 2019, this type of procedure has been conducted in El Salvador, Guatemala, Panama, Paraguay and Costa Rica, with important collaboration from those States.

72 Private hearing on joint monitoring of compliance with judgments in the cases of Ortega et al. and Rosendo Cantú et al. v. Mexico.

73 Private hearing on joint monitoring of compliance with judgments in the cases of Acevedo Jaramillo et al. and Acevedo Buendía et al. ("Dismissed and Retired Employees of the Comptroller's Office") v. Peru.

74 Private monitoring hearings for: Case of Bayarri v. Argentina and Case of Mendoza et al. v. Argentina.

75 Private monitoring hearing for: Case of Almonacid Arellano et al. v. Chile.

76 Private monitoring hearing for: Case of V.R.P., V.P.C. et al. v. Nicaragua.

77 Private monitoring hearings in: Case of the Campesino Community of Santa Bárbara v. Peru; Case of De La Cruz Flores v. Peru, and Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru.

78 Public hearing in the Case of Vélez Loor v. Panama.

79 In 2020, the Court declared full compliance and partial compliance or progress in compliance in the case of 67 measures of reparation. It also declared that the monitoring of one reparation had concluded.

States with regard to three judgments.

In addition to monitoring by means of these orders and hearings, during 2020, 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 151 of the 237[80] cases at the stage of monitoring compliance with judgment.

In 2020, the Court received 283 reports and attachments from the States in 144 of the 237[81] cases at the stage of monitoring compliance with judgment. Additionally, over the course of the year, the Court received 454 briefs with observations from either the victims or their legal representatives, or from the Inter-American Commission in 134 of the 237 cases at the stage of monitoring compliance with judgment. All these briefs were promptly forwarded to the parties.

Also, during 2020, the Court continued to implement the said mechanism of joint monitoring with regard to the following measures of reparation:

- The obligation to investigate, prosecute and punish, as appropriate, those responsible for gross human rights violations in 14 cases against Guatemala. Also, to monitor execution of the provisional measures ordered in these 14 cases that the State must "interrupt the legislative processing of Bill 5377 intended to amend the 1996 National Reconciliation Act by granting an amnesty for all gross violations committed during the internal armed conflict, and archive it";
- Measures to identify, grant title to, and deliver lands of three indigenous communities ordered in three cases against Paraguay;
- The provision of medical and psychological treatment to the victims in nine cases against Colombia;
- The adaptation of domestic law to international standards and those of the Convention with regard to the guarantee of an ordinary judge in relation to the military criminal Jurisdiction in four cases against Mexico;
- 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;
- The adaptation of domestic law concerning the right to appeal a judgment before a higher judge or court in two cases against Argentina;
- Guarantees of non-repetition in two cases against Honduras concerning protection for human rights defenders, in particular environmentalists;
- The search for the whereabouts or identification of remains in six cases against Colombia; and,
- The search for the whereabouts of persons disappeared or identification of remains in eleven cases against Peru.

80 The list of 237 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.

81 The list of 237 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.

## B. Virtual hearing of cases at the stage of monitoring compliance with judgment held in 2020

During 2020, the Inter-American Court held **10 hearings in 12 cases at the stage of monitoring compliance**. Of these, **9 hearings** were private and held during the 137th regular session to monitor compliance with diverse measures of reparation ordered in judgments in **11 cases.** The remaining hearing, held during the 135th regular session, was public and held for a case that was at the stage of monitoring compliance, in which the President of the Court had ordered urgent measures in response to a request for provisional measures submitted by the representatives of the victim in the case. All these hearings were held virtually, using information technology, as established in the Court's Rules of Procedure.

### 1. Case of Vélez Loor v. Panama

On May 7, 2020, the representatives of the victim in this case, which is at the stage of monitoring compliance, presented a request for provisional measures for Panama to implement measures of protection "for migrants retained in […] the La Peñita center in the Darien region, in order to avoid irreparable harm to their rights to life, health and personal integrity" in the context of the current COVID-19 health crisis. On May 26, 2020, the President of the Court adopted urgent measures on verifying that the request was related to the purpose of the case, because it involved a guarantee of non-repetition ordered in the judgment concerning the adoption of measures to ensure that establishments housing migrants – whose detention was necessary and proportionate – had sufficient capacity and were adapted to that purpose and also because, prima facie, the Convention's requirements of extreme gravity, urgency and risk of irreparable harm for granting this measure were met.

Following the issue of this order, the President called the parties and the Inter-American Commission to a virtual public hearing to receive updated information on the actions taken to implement the urgent measures ordered and on the request for provisional measures presented in this case and this was held on July 9, 2020, during the 135th regular session. At that time, the State provided this information, and the Court was able to hear the observations of the representatives and the Commission. Also, the Panamanian Ombudsman was asked to take part in the hearing as "another source of information" so that, within his terms of reference, he could present any information he considered relevant.

### 2. Joint hearing for the Cases of Fernández Ortega et al. and Rosendo Cantú et al. v. Mexico

On October 1, 2020, during the 137th regular session, a virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive detailed updated information from the State on compliance with the following reparations: five guarantees of non-repetition; the obligation to investigate, prosecute and punish, as appropriate, the rape of the two victims perpetrated by soldiers; measures in the victims' communities involving a community center to provide educational activities on women's rights and another center to provide board and lodging to girls in high school, as well as to reinforce a specific health center so that it would continue providing services to care for women victims of sexual violence. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 3. Joint hearing for the Cases of Acevedo Jaramillo et al. and Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru

On October 1, 2020, during the 137th regular session, this virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with six measures of reparation ordered in the judgment in the Case of Acevedo Jaramillo *et al.*, and one measure of reparation ordered in the judgment in the *Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office")*. A joint hearing was held for these two cases owing to the common budgetary obstacles to the execution of the domestic judgments to which the facts of these cases relate. In the case of *Acevedo Jaramillo et*

*al.*, the Court monitored the following measures: (i) execute the amparo judgments that the Court declared had not been complied with; (ii) reinstate the workers in their former or similar posts in execution of the amparo judgments that ordered this, or pay compensation for unjustified termination of the employment relationship; (iii) pay compensation for loss of earnings to the discharged workers who have not been reinstated; (iv) determine which victims have the right to a retirement pension, or whose families have the right to a survivor's pension; (v) pay the retirement pensions to the discharged workers who have not received these pensions in compliance with the amparo judgments ordering their reinstatement, and (vi) pay the corresponding survivor's pensions to the heirs of the discharged workers regarding whom the amparo judgments ordering their reinstatement were not executed. In the *case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office")*, the Court monitored the measure requiring compliance with the judgments of the Peruvian Constitutional Court of October 21, 1997, and January 26, 2001, in relation to the reimbursement of loss of earnings from April 1993 to October 2002. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 4. Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru

On October 1, 2020, during the 137th regular session, this virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with the two pending measures of reparation in this case: (i) guarantee the 257 victims access to a simple, rapid and effective remedy and, to this end, the State must conclude, as soon as possible, the process of constituting an independent and impartial body that has the authority to take a final binding decision on whether the victims were dismissed from the Congress of the Republic in a justifiable and regular manner or, if it decides to the contrary, it must established the corresponding legal consequences, including, if appropriate, the compensation owed based on the specific circumstances of each victim, and (ii) pay the 257 victims compensation for non-pecuniary damage. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 5. Case of the Campesino Community of Santa Bárbara v. Peru

On October 7, 2020, during the 137th regular session, a virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with the four pending measures of reparation in this case: (i) conduct the wide-ranging, systematic and thorough investigations required to determine, prosecute and punish, as appropriate, those responsible for the violations declared in the judgment; (ii) deliver ten alpacas each to Zenón Cirilo Osnayo Tunque and Marcelo Hilario Quispe or their market value, and provide each of them, under existing housing programs, with an adequate house, or provide each of them, in equity, with the sum of money established in the judgment; (iii) provide, immediately and free of charge, appropriate, comprehensive and effective medical and psychological or psychiatric treatment in the State's specialized health institutions to the victims who request this, and (iv) pay the amounts established as compensation for pecuniary and non-pecuniary damage, as well as to reimburse costs and expenses. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 6. Case of V.R.P., V.P.C. et al. v. Nicaragua

On October 7, 2020, during the 137th regular session, a virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive detailed updated information from the State on compliance with six measures of reparation ordered in the judgment: (i) pay V.R.P., V.P.C. and N.R.P. the amounts established for the concept of the expenses of medical, psychological and/or psychiatric treatment, as applicable; (ii) provide immediately and free of charge, appropriate and effective psychological and/or psychiatric treatment in the State's specialized health institutions to H.J.R.P. and V.A.R.P.; (iii) make the publications ordered in the judgment; (iv) pay V.R.P. the amount established for a scholarship to cover the necessary costs to conclude her professional training in the place where she resides; (v) grant V.A.R.P. a scholarship in a Nicaraguan public institution, as agreed between the beneficiary and the State, to carry out higher technical or university studies, or to train for a trade, and (vi) pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage, as well as to reimburse costs and expenses. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 7. Case of Almonacid Arellano et al. v. Chile

On October 7, 2020, during the 137th regular session, a virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with the two pending measures of reparation in this case: (i) investigate, identify, prosecute and punish, as appropriate, those responsible for the extrajudicial execution of Mr. Almonacid Arellano and ensure that Decree Law No. 2,191 does not continue to represent an obstacle for the continuation of these investigations, and (ii) ensure that Decree Law No. 2,191 does not continue to represent an obstacle for the investigation, prosecution and punishment, as appropriate, of those responsible for other similar violations in Chile. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 8. Case of Mendoza et al. v. Argentina

On October 7, 2020, during the 137th regular session, this virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with the measures of reparation ordered in eight operative paragraphs of the judgment: (i) provide the victims immediately and free of charge, with appropriate and effective medical and psychological and/or psychiatric treatment through the State's specialized health institutions or personnel; (ii) guarantee the victims the education or formal training options of their choice; (iii) adapt the State's legal framework to the international standards indicated in the judgment in the area of juvenile criminal justice; design and implement public policies that have clear goals and specific timetables, together with the allocation of adequate budgetary resources, for the prevention of juvenile crime through effective programs and services that encourage the integral development of children and adolescents; disseminate the international standards concerning the rights of the child, and provide support to the most vulnerable children and adolescents and their families; (iv) ensure that life sentences are never again imposed on the victims or on any other person for crimes committed while a minor, and ensure that those who are currently serving such sentences for crimes committed while they were minors are able to obtain a review of their sentence that is adapted to the standards described in the judgment; (v) adapt the domestic legal system to the parameters established in the judgment with regard to the right to appeal a judgment before a higher judge or court; (vi) implement compulsory programs or courses on the principles and norms for the protection of human rights and the rights of the child, including those concerning humane treatment and torture, as part of the general and ongoing training for federal prison personnel and those of the province of Mendoza, as well as judges with competence for crimes committed by children; (vii) investigate the facts that may have contributed to the death of the victim, Ricardo David Videla, in the Mendoza Prison, and (viii) conduct a criminal investigation into the torture suffered by two victims (Claudio David Núñez and Lucas Matías Mendoza), to determine the possible criminal responsibilities and apply the appropriate legal punishments and consequences. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 9. Case of Bayarri v. Argentina

On October 8, 2020, during the 137th regular session, this virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive updated information from the State on compliance with the four pending measures of reparation in this case: (i) provide, free of charge, immediately and for as long as necessary, the medical treatment required by the victim, Juan Carlos Bayarri; (ii) conclude the criminal proceedings initiated for the facts that gave rise to the violations in this case and decide it as established by law; (iii) ensure the immediate elimination of Juan Carlos Bayarri's name from all public records in which it appears with a criminal record, and (iv) incorporate members of law enforcement personnel, the investigation organs, and the administration of justice into the dissemination and training activities on the prevention of torture and cruel, inhuman or degrading treatment or punishment. The Court also heard the observations of the victims' representatives in the two cases and the opinion of the Commission.

### 10. Case of De La Cruz Flores v. Peru

On October 8, 2020, during the 137th regular session, this virtual private hearing was held on monitoring compliance with judgment. The purpose of the hearing was to receive information from the State on the three measures of

reparation pending in this case: (i) observe the principle of legality and non-retroactivity recognized in Article 9 of the American Convention and the requirement of due process of law in the new proceedings against María Teresa De La Cruz Flores; (ii) provide María Teresa De La Cruz Flores with a grant that allows her to receive training and professional upgrading, and (iii) reincorporate María Teresa De La Cruz Flores into the corresponding retirement plan. The Court also heard the observations of the victim's representatives and the opinion of the Commission.

## C. Orders on monitoring compliance with judgment issued in 2020

In 2020, the Court or its President issued 49 orders to monitor compliance with judgment. All the orders on monitoring compliance with judgment adopted by the Court are available here.

During the 133rd regular session of the Inter-American Court, held from January 27 to February 7, 2020, the full Court decided to delegate to its President the assessment of matters relating to reimbursements to the Victims' Legal Assistance Fund. Accordingly, during 2020, the President of the Court issued six orders noting compliance with reimbursements to the Victims' Legal Assistance Fund ordered by the Court in judgments in six cases. These orders are available here.

The Court also noted reimbursement to the said Fund in another four cases in which it evaluated both compliance with reparations and reimbursement of the Fund.

These orders are listed below in the order in which they were issued, and by categories based on their content and purpose.

### C.1. Monitoring compliance with judgment (evaluating compliance with all or several reparations ordered in the judgment in each case)

| Monitoring compliance with judgment | |
|---|---|
| [Evaluating compliance with all or several reparations ordered in the judgment in each case] | |
| **Name of the case** | **Link** |
| 1. Case of Vereda la Esperanza v. Colombia. Monitoring compliance with judgment and reimbursement of the Victims' Legal Assistance Fund. Order of March 9, 2020. | Here |
| 2. Case of Liakat Ali Alibux v. Suriname. Order of March 9, 2020. | Here |
| 3. Case of Boyce *et al.* v. Barbados. Monitoring compliance with judgment and reimbursement of the Victims' Legal Assistance Fund. Order of March 9, 2020. | Here |
| 4. Case of Osorio Rivera and family members v. Peru. Order of March 9, 2020. | Here |
| 5. Case of López Lone *et al.* v. Honduras. Order of March 9, 2020. | Here |

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| 6. Case of DaCosta Cadogan v. Barbados. Monitoring compliance with judgment and reimbursement of the Victims' Legal Assistance Fund. Order of March 11, 2020. | Here |
| 7. Case of Bueno Alves v. Argentina. Order of March 11, 2020. | Here |
| 8. Case of Fontevecchia and D'Amico v. Argentina. Order of March 11, 2020. | Here |
| 9. Case of Duque v. Colombia. Order of March 12, 2020. | Here |
| 10. Case of Canales Huapaya *et al.* v. Peru. Order of March 12, 2020 | Here |
| 11. Case of Muelle Flores v. Peru. Monitoring compliance with judgment and reimbursement of the Victims' Legal Assistance Fund. Order of March 12, 2020. | Here |
| 12.Case of Manuel Cepeda Vargas v. Colombia. Order of March 12, 2020. | Here |
| 13. Case of Rosendo Cantú *et al.* v. Mexico. Order of March 12, 2020. | Here |
| 14. Case of Ramírez Escobar *et al.* v. Guatemala. Monitoring compliance with judgment and reimbursement of the Victims' Legal Assistance Fund. Order of March 12, 2020. | Here |
| 15. Case of I.V. v. Bolivia. Order of June 1, 2020. | Here |
| 16. Case of Huilca Tecse v. Peru. Order of June 1, 2020. | Here |
| 17. Case of Valle Jaramillo *et al.* v. Colombia. Order of June 1, 2020. | Here |
| 18. Case of Villaseñor Velarde *et al.* v. Guatemala. Monitoring Compliance with Judgment and Reimbursement of Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of June 24, 2020. | Here |
| 19. Case of Cabrera García and Montiel Flores v. Mexico. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights of June 24, 2020. | Here |
| 20. Case of Munárriz Escobar *et al.* v. Peru. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 20, 2020. | Here |
| 21.Case of Órdenes Guerra *et al.* v. Chile. Order of July 21, 2020. | Here |
| 22. Case of Torres Millacura *et al.* v. Argentina. Monitoring Compliance with Judgment and Reimbursement of Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of July 21, 2020. | Here |

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| 23. Case of Zegarra Marín v. Peru. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 21, 2020. | Here |
| 24. Case of the Miguel Castro Castro Prison v. Peru. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 29, 2020. | Here |
| 25. Case of Luna López *et al.* v. Honduras. Order of September 2, 2020. | Here |
| 26. Case of Villamizar Durán *et al.* v. Colombia. Order of September 2, 2020. | Here |
| 27. Case of Tenorio Roca *et al.*v. Peru. Order of September 2, 2020. | Here |
| 28. Case of Ruiz Fuentes *et al.* v. Guatemala. Provisional Measures. Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 2, 2020. | Here |
| 29. Case of Molina Theissen v. Guatemala. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 3, 2020. | Here |
| 30. Case of Galindo Cárdenas *et al.* v. Peru. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 3, 2020. | Here |
| 31. Cases of the Pueblo Bello Massacre, Case of the Ituango Massacres and Case of Valle Jaramillo *et al.* v. Colombia. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 3, 2020. | Here |
| 32. Case of Galindo Cárdenas *et al.* v. Peru. Order of October 8, 2020. | Here |
| 33. Case of Granier *et al.* (Radio Caracas Television) v. Venezuela. Order of November 18, 2020. | Here |
| 34. Case Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama. Order of November 18, 2020. | Here |
| 35. Case of Colindres Schonenberg v. El Salvador. Order of November 18, 2020. | Here |
| 36. Case of the Caracazo v. Venezuela. Order of November 18, 2020. | Here |
| 37. Case of Barrios family v. Venezuela. Order of November 18, 2020. | Here |

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| 38. Case of the Pueblo Bello Massacre v. Colombia. Order of November 18, 2020. | Here |
| 39. Case of Dismissed Employees of Petroperú *et al.* v. Peru. Order of November 18, 2020. | Here |
| 40. Case of Gelman v. Uruguay. Order of November 19, 2020. | Here |
| 41. Case of the Massacres of El Mozote and surrounding areas v. El Salvador. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 19, 2020. | Here |
| 42. Case of Acevedo Jaramillo *et al.* v. Peru. Request for Provisional Measures and Monitoring Compliance with Judgments. Order of the Inter-American Court of Human Rights of November 19, 2020. | Here |
| 43. Case of Women Victims of Sexual Torture in Atenco v. Mexico. Order of November 19, 2020. | Here |

**Compliance with reimbursement of the Victims' Legal Assistance Fund**

**[Orders of the President on compliance with reimbursement of the Victims' Legal Assistance Fund]**

| Name of the case | Link |
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| 44. Case of Yarce et al. v. Colombia. Order of December 7, 2020. | Here |
| 45. Case of Montesinos Mejía v. Ecuador. Order of December 15, 2020. | Here |
| 46. Case of Vásquez Durand et al. v. Ecuador. Order of December 15, 2020. | Here |
| 47. Case of Rosadio Villavicencio v. Peru. Order of December 15, 2020. | Here |
| 48. Case of Azul Rojas Marín et al. v. Peru. Order of December 15, 2020. | Here |
| 49. Case of Cuscul Pivaral et al. v. Guatemala. Order of December 18, 2020. | Here |

## C.2. Requests for provisional measures presented in cases at the stage of monitoring compliance with judgment

During 2020, the Court ruled on **eight requests for provisional measures** submitted by victims or their representatives in **10 cases[82] at the stage of monitoring compliance with judgment in relation to implementation of measures of reparation**.

As a general rule, the Court has considered that information relating to compliance with measures of reparation ordered in the judgments should be assessed at the stage of monitoring compliance with judgment. However, exceptionally, if a request for provisional measures is related to the purpose of the case, the Court has analyzed whether the requirements of extreme gravity, urgency and the risk of irreparable harm are met that are necessary in order to adopt such measures.

When decided these requests, in two of them *(Case of Vélez Loor v. Panama and Case of the Miguel Castro Castro Prison v. Peru)*, the Court considered that exceptional circumstances had been constituted that warranted examining whether the Convention's requirements for the adoption of provisional measures were met.

In the *Case of Vélez Loor v. Panama*, the Court decided to adopt provisional measures to "[r]equire the State of Panama to continue taking all appropriate measures to protect the rights to health, personal integrity and life of the individuals in the La Peñita and Lajas Blancas Migrant Reception Stations in the province of Darien," in the context of the COVID-19 pandemic. The Court considered that the request was "related to the purpose of the case" because it "was linked to the execution of the measure of reparation ordered in the fifteenth operative paragraph of the judgment" concerning the obligation "to adopt the necessary measures to create establishments with sufficient capacity to accommodate those whose detention is necessary and proportionate for migratory reasons in this particular case, specifically adapted to this purpose, that offer appropriate physical conditions and a regime suitable for migrants and are staffed by property trained and qualified civilians."

In the *Case of the Miguel Castro Castro Prison v. Peru*, based on the principle of complementarity, the Court decided to conduct "enhanced monitoring" of the reparation concerning medical and psychological treatment for the five victims for whom the measures had been requested, taking into account that two of them had been infected with COVID-19 and that they all indicated that they were suffering from symptoms compatible with the illness or unsafe conditions that placed them in a situation of special vulnerability to the pandemic as they were deprived of liberty in prisons. In the case of Ruiz Fuentes *et al.* v. Guatemala, the Court decided to conduct "enhanced monitoring" of the obligation established in the judgment to investigate, identify, prosecute and punish, as appropriate, those responsible for the death of Hugo Humberto Ruiz Fuentes, with regard to the duty to ensure that the agents of justice (Prosecutors "A" and "B" and Assistant Prosecutor "C") involved in the investigations had due guarantees for their safety. The "enhanced monitoring" entailed a constant follow-up on compliance with this reparation, separately from the other reparations ordered in the judgment and, to this end, the State was required to present more frequent reports.

Regarding the other five requests for provisional measures, the Court decided to reject them and evaluate the respective issues in the context of monitoring compliance with the judgments. The Court ruled on the status of compliance with the reparations that these requests referred to and requested the States to provide reports.

## C.3. Closure of cases due to compliance with the judgments

During 2020, the Court declare the closure of five cases corresponding to Barbados, Colombia, El Salvador, Guatemala and Suriname due to full compliance with the reparations ordered in the respective judgments.

82 *Case of Vélez Loor v. Panama; Case of the Miguel Castro Castro Prison v. Peru; Case of Ruiz Fuentes et al. v. Guatemala; Cases of the Pueblo Bello Massacre, the Ituango Massacres, and Valle Jaramillo et al. v. Colombia; Case of Galindo Cárdenas et al. v. Peru; Case of Molina Theissen v. Guatemala; Case of the Massacres of El Mozote and neighboring places v. El Salvador, and Case of Acevedo Jaramillo et al. v. Peru.*

### 1. Case of Liakat Ali Alibux v. Suriname

On March 9, 2020, the Court issued an order in which it decided to conclude and close this case in which the judgment had been delivered on January 30, 2014. Based on the Court's findings, in this order it declared that Suriname had complied with the reparation of paying the sums established in the judgment as compensation for non-pecuniary damage and reimbursement of costs and expenses. Regarding the measure of reparation concerning publication and dissemination of the judgment and its official summary, the victim indicated that, for "personal and professional reasons," he considered that the execution of that measure of reparation would prejudice him. Based on the victim's wishes that this measure should not be executed, the Court declared that its monitoring had concluded.

The order of March 9, 2020, can be found here.

### 2. Case of Boyce et al. v. Barbados

On March 9, 2020, the Court issued an order in which it decided to conclude and close this case because Barbados had complied with all the reparations ordered in the judgment of November 20, 2007. Based on its findings in that order and in the order of November 21, 2011, the Court declared that Barbados had complied with the reparations to: (i) adopt such legislative or other measures as may be necessary to ensure that the imposition of the death penalty does not contravene the rights and freedoms guaranteed in the Convention and, in particular, that it is not imposed through mandatory sentencing; (ii) adopt such legislative or other measures necessary to ensure that the Constitution and laws of Barbados are brought into compliance with the American Convention, and, specifically, remove the immunizing effect of section 26 of the Constitution of Barbados in respect of "existing laws"; (iii) adopt and implement such measures as necessary to ensure that the conditions of detention in which the victims in this case are held comply with the requirements of the American Convention; (iv) commute the death sentence of Michael McDonald Huggins, and (v) make the payment for reimbursement of the costs and expenses of the victims' representatives.

The order of March 9, 2020, can be found here.

### 3. Case of Duque v. Colombia

On March 12, 2020, the Court issued an order in which it decided to conclude and close this case because Colombia had complied with all the reparations ordered in the judgment of February 26, 2016. Based on its findings in that order and in the orders of October 7, 2016, November 22, 2018, and November 22, 2019, the Court declared that Colombia had complied fully with the measures of reparation to: (i) guarantee that the processing of Mr. Duque's survivor's pension is prioritized; (ii) publish and disseminate the judgment and its official summary; (iii) pay the victim compensation for non-pecuniary damage as a result of the violation, and (iv) reimburse the costs and expenses to the victim's legal representatives.

The order of March 12, 2020, can be found here (Only in Spanish).

### 4. Case of Villaseñor Velarde et al. v. Guatemala

On June 24, 2020, the Court issued an order in which it decided to conclude and close this case because Guatemala had complied with all the reparations ordered in the judgment of February 5, 2019. Based on its findings in that order, the Court declared that Guatemala had complied with the reparations: (i) to publish the judgment and the official summary, and (ii) to pay the victim, María Eugenia Villaseñor Velarde, the amount established in the judgment as compensation for non-pecuniary damage. The Court also noted that the State had reimbursed the Victims' Legal Assistance Fund of the Inter-American Court the amount stipulated in the judgment for the disbursements made during the processing of this case.

The order of June 24, 2020, can be found here (Only in Spanish).

### 5. Case of Colindres Schonenberg v. El Salvador

On November 18, 2020, the Court issued an order in which it decided to conclude and close this case because El Salvador had complied with all the reparations ordered in the judgment of February 4, 2019. Based on its findings in that order and in the order of November 22, 2019, the Court declared that El Salvador had complied with the reparations: (i) to publish and disseminate the judgment and its official summary, and (ii) to pay the victim, Eduardo Benjamín Colindres Schonenberg, the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage.

The order of November 18, 2020, can be found here (Only in Spanish).

## C.4. Compliance with guarantees of non-repetition

During 2020, the Court assessed compliance (total or partial) with different measures of reparation that constitute guarantees of non-repetition, and it finds it appropriate to underline them in order to disseminate these good practices and the progress made by the States. Due to the kind of structural changes that the execution of these measures involve, they benefit both the victims of the cases and society as a whole. Compliance with them requires actions that involve amendments to the law, changes in case law, the design and execution of public policies, changes in administrative practices, and other particularly complex measures.

Such measures were complied with (totally or partially) by the States of Barbados and Uruguay.

### a) Barbados: adaptation of domestic law to protect the right to life following the imposing of a mandatory death penalty for the crime of homicide

In the judgments in the cases of *Boyce et al*. and *DaCosta Cadogan*, the Court ordered guarantees of non-repetition involving the adoption of legislative or other measures to ensure that the death penalty, regulated in the 1994 Offences Against the Person Act, was not imposed by mandatory sentencing on any person found guilty of homicide, and to eliminate the effects of section 26 of the Constitution of Barbados that prevented challenging this law.

Regarding the measure to adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed by a mandatory sentence, the Court noted in its orders of March 9 and 11, 2020, that Barbados had complied fully with this because, on June 27, 2018, the Caribbean Court of Justice[83] declared that article 2 of the 1994 Offences Against the Person Act, which established the mandatory death penalty, was unconstitutional and ordered that a new punishment be enacted for all those sentenced to death under that law, or whose death sentence had been commuted to life imprisonment. When taking this decision, the Caribbean Court of Justice took into account the case law of the Inter-American Court concerning the death penalty, as well as the fact that Barbados had acknowledged its international obligation to eliminate the mandatory imposing of the death penalty before the Inter-American Court in the context of the Case of Boyce *et al.* and the Case of DaCosta Cadogan, as well as during the stage of monitoring compliance with judgment in both cases. In the order of March 9, 2020, the Inter-American Court stressed that the considerations of the Caribbean Court of Justice in its ruling were similar to those underlying the guarantees of non-repetition ordered by this Court in those cases, and represented an example of the constructive dialogue and cooperation between the Inter-American Court and other courts in the execution of its judgments. In addition, the Court took into account the information provided by the State and the victims' representatives that, a few months after that decision, Barbados had adopted a series of legislative amendments aimed at adapting its domestic laws to the decision of the Caribbean Court of Justice.

In the case of the measure concerning the adoption of such legislative or other measures as may be necessary to remove the immunizing effect of section 26 of the Constitution of Barbados in respect of "existing laws," in the orders

83 The Caribbean Court of Justice is an international court is a hybrid institution: a municipal court of last resort and an international court acting as a higher court with regard to those States that, such as Barbados, have granted it this authority. The Constitution of Barbados expressly recognizes that the Caribbean Court of Justice forms part of its Judiciary and constitutes the final court of appeal in Barbados.

of March 2020, the Court noted that Barbados had complied fully with this because, on June 27, 2018, the Caribbean Court of Justice had issued a ruling in which it considered that the interpretation that the courts of Barbados had been making of this provision was erroneous, rectifying this situation by establishing that section 26 of the Constitution should be interpreted so that the rights and freedoms that it established prevailed over the so-called "existing laws."

### b) Barbados: ensure that anyone accused of a crime punishable by the mandatory death penalty is duly informed of his right to obtain a psychiatric assessment

In the judgment in the *Case of DaCosta Cadogan*, the Court established that Barbados must "ensure that all persons accused of a crime whose sanction is the mandatory death penalty will be duly informed, at the initiation of the criminal proceedings against them, of their right to obtain a psychiatric evaluation carried out by a state-employed psychiatrist."

In its order of March 2020, the Court noted that Barbados had complied fully with this measure, because the law that allowed imposing a mandatory death penalty had been declared unconstitutional and was no longer in force.

### c) Uruguay: measures to ensure the investigation of gross human rights violations committed during the dictatorship and access to information on those violations

In the judgment in the *Gelman case*, the Court established that the Law on the Expiry of the Punitive Claims of the State (Law No. 15,848 of 1986) was invalid because it was incompatible with the American Convention and with the Inter-American Convention on the Forced Disappearances of Persons. Consequently, it ordered the State to ensure that the said law would never again represent an obstacle to the investigation of the events of this case or to the identification and punishment, as appropriate, of those responsible for such events, and other similar gross human right violations that occurred in Uruguay during the dictatorship.

In its order of November 19, 2020, the Court declared that this measure had been partially executed because the said amnesty law was not representing an obstacle to the investigation of the facts of this case, or of other gross human rights violations and that this was due to the fact that Uruguay, through its Executive and Legislative Branches, had adopted specific measures to comply with this measure, namely: Decree 323 of June 30, 2011, and Law 18, 831 of October 27, 2011, article 1 of which annulled the said amnesty law. Added to this, the Court noted that it could not declare that this guarantee of non-repetition had been complied with because, despite the said norms, the Supreme Court of Justice had continued to interpret that articles 2 and 3 of Law 18, 831 were unconstitutional (they refer to the non-applicability of statutes of limitations and the character of crimes against humanity of the violations that occurred during the dictatorship). Accordingly, this does not provide sufficient legal certainty that, despite the norms recently enacted, the State has adopted all the necessary measures and actions to ensure that the effects of the amnesty law no longer represent an obstacle and that facts that constitute gross human rights violations committed during the dictatorship do not remain in impunity.

In addition, in the said order, the Court noted partial progress in the guarantee of non-repetition ordered in the judgment to adopt the pertinent measures to ensure technical and systematized access to information on gross human rights violations. In this regard, it noted that the State, through the Working Group for Truth and Justice and through the Judiciary, had taken several measures to recover and upload information from various military and police sources that could have an impact on the clarification of gross violations committed during the dictatorship, and had taken steps to ensure access. The Court recalls that Uruguay should continue implementing this measure of reparation as completely as possible and asked the State to present certain information in order to assess total compliance with this measure in a subsequent order.

Lastly, the Court also declared in the order that there had been partial progress in the measure on the adoption of a protocol for the collection and identification of the remains of those who disappeared, noting that Uruguay had adopted the *"Protocol of procedures to be followed for the search, recovery and analysis of osseous remains that could belong to persons detained and disappeared."* It added that, in order to assess full compliance with this measure in a later order, the State must refer to certain observations of the victim's representatives and advise whether the authorities

responsible for the search for disappeared persons are aware of this protocol and also, considering that it was adopted nearly seven years ago, clarify whether it is still in force.

## C.5. Partial compliance with the obligation to investigate

The obligation to investigate is one of the positive measures that States must adopt to guarantee the rights recognized in the American Convention, as well as to contribute to making reparation to the victims and their families. In particular, it relates to the States' obligation to ensure the rights to life, and to personal integrity and liberty by an effective investigation of the facts that violated those rights and, as appropriate, by the punishment of those responsible[84]. This obligation has been ordered in numerous judgments of the Court and is one of the measures that it is most difficult for the States to comply with owing to the many difficulties that its implementation involves. These include: legal obstacles such as amnesty laws; shortcomings in the systems of justice; concealment, coercion or pacts of silence among those possibly responsible; lack of access to records to obtain evidence; failure to gather evidence promptly or flaws in the chain of custody of the evidence; the time that passes between the events and the investigation, and insufficient personnel or adequate resources to expedite investigations.

In several cases the Inter-American Court has recognized that significant progress has been made in complying with this obligation; but only in very few cases has the Court been able to determine that the State's efforts haves been sufficient to declare partial or total compliance with this obligation[85]. In 2020, the Court declared that Mexico had been complying with and should continue implementing this obligation in one case, and declared partial compliance with the obligation in four cases: with regard to Argentina, Colombia and Uruguay.

### a) Case of Torres Millacura et al. v. Argentina: determination of the criminal responsibility of two police officers for the crime of forced disappearance

In the judgment in this case, issued on August 26, 2011, the Court established that, "within a reasonable time," Argentina must "remove all obstacles, de facto and de jure, that keep this case in impunity, and initiate and continue all necessary investigations to identify and, as appropriate, punish all those responsible for the facts that took place with regard to Mr. Torres Millacura" and "establish the whole truth about the facts."

In an order of July 21, 2020, the Court declared that Argentina had complied partially with the measure. In this regard, it considered that, even though there had been major flaws in the investigation of the forced disappearance of Iván Torres, this crime was no longer in the situation of total impunity verified at the time of the judgment because, on July 6, 2016, the Federal Criminal Oral Court of Comodoro Rivadavia had delivered a judgment convicting two police officers of the First Precinct of Comodoro Rivadavia as "accomplices in the forced disappearance of Iván Eladio Torres." Consequently, it imposed on them sentences of 12 and 15 years' imprisonment, as well as "absolute and permanent disqualification from holding public office or performing private security work, and also court costs and legal expenses." The Court asked the State to advise whether the convictions were final and if they were being executed. In addition, the Court took into account that, regarding the facts of this case, a new trial had been ordered for a further three police officers, as well as a new criminal investigation into others possibly responsible for the facts, and asked the State to present information in this regard.

The order of July 21, 2020, can be found here (Only in Spanish).

84 This obligation means that States must remove all the factual and legal obstacles that prevent due investigation of the facts and use all available means to expedite the said investigation and the respective procedures in order to avoid the repetition of violations. The Inter-American Court has established that this is an obligation of means and not of results, that must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be unsuccessful, or simply as a measure taken by private interests that depends on the procedural initiative of the victims or their next of kin, or on the private contribution of evidence.

85 Prior to 2020, the Court had declared total compliance with the obligation to investigate in two cases: against Colombia and Peru, and partial compliance in eight cases: against Argentina, Bolivia, Brazil, Colombia, Guatemala and Peru. It had also declared that monitoring compliance with this obligation had concluded in two cases: against Brazil and Peru.

### b) Case of Valle Jaramillo et al. v. Colombia: determination of responsibility for the murder of the human rights defender Jesús María Valle Jaramillo

In the judgment in this case, delivered on November 27, 2008, the Court considered that, although criminal investigations had been conducted resulting in two civilians being sentenced as perpetrators of the murder of Mr. Valle Jaramillo, and another as responsible for establishing paramilitary groups, partial impunity persisted in this case, as the State had acknowledged, because neither the whole truth about the facts nor all those criminally responsible for the facts had been determined. Consequently, the Court ordered the State "to investigate the facts that gave rise to the violations in this case" as indicated in the judgment.
In the order of June 1, 2020, the Court declared that Colombia had complied partially with this measure. To this end, it took into consideration that, based on its findings at both the merits stage of the case and while monitoring compliance with judgment, the criminal proceedings conducted to date had resulted in the conviction of six individuals in relation to the facts of the case: five of them as co-perpetrators of the murder of Mr. Valle Jaramillo, and one as responsible for the crime of establishing paramilitary groups. In addition, the Court took into account that two investigations into the facts of this case were underway. One of them is a criminal investigation undertaken by a special prosecutor attached to the Special Human Rights Violations Department, and the other is a preliminary inquiry by the Criminal Cassation Chamber of the Supreme Court of Justice against the person who was the Governor of Antioquia at the time of the facts (and is now a senator of the Republic and therefore enjoys constitutional privilege) for "the crimes of criminal conspiracy, aggravated homicide, abduction, forced displacement and related crimes," for several massacres, as well as for the murder of the human rights defender, Jesús María Valle Jaramillo, all of which took place between 1996 and 1998. Lastly, the Court emphasized that positive measures had been adopted by the internal classification of the crimes that were the subject of the two investigations as crimes against humanity, in order to eliminate any obstacles that could lead to the impunity of these acts.

The order of June 1, 2020, can be found here (Only in Spanish).

### c) Case of the Pueblo Bello Massacre v. Colombia: determination of the criminal responsibility of 24 persons for forced disappearance and extrajudicial execution

In the judgment in this case, delivered on January 31, 2006, the Court considered proven that judgments had been handed down declaring the criminal responsibility of six individuals who had been sentenced to between 19 and 28 years' imprisonment for the crimes of multiple abductions and murders, use of military uniforms, terrorism, and membership in an armed group, among others, in relation to what happened to 43 men in the village of Pueblo Bello on January 14, 1990. However, it considered that, in this case, partial impunity continued because most of the approximately 60 paramilitaries who had taken part in the raid and the facts that took place in Pueblo Bello had not been investigated and because there had not been a serious investigation into the participation of the Colombian military forces. Consequently, the Court established that the State should "immediately carry out the necessary procedures to activate and complete, within a reasonable time, the investigation to determine the masterminds and perpetrators of the massacre and those who, by act or omission, failed to comply with the State obligation to guarantee the rights that were violated."

In the order of November 18, 2020, the Court declared that the State had complied partially with this measure because, to date, some progress had been made in determining the criminal responsibility of 24 individuals (6 of them convicted before the judgment was issued) for the forced disappearance and extrajudicial execution of 43 persons in Pueblo Bello. Those individuals were sentenced to between 11 and 60 years' imprisonment and to fines. In addition, the Court considered that criminal proceedings were underway with regard to 24 individuals, including at least 7 members of the military forces, for multiple aggravated homicides, terrorism, torture, and multiple aggravated forced disappearances.

The order of November 18, 2020, can be found here (Only in Spanish).

### d) Case of Gelman v. Uruguay: determination of the criminal responsibility of five former soldiers for violations committed during the dictatorship

In the judgment in this case, delivered on February 24, 2011, the Court established that Uruguay, "within a reasonable time, […] must conduct and conclude the investigation into the facts of [this] case in order to clarify them, determine the corresponding criminal and administrative responsibilities and apply the consequent penalties established by law." Based on the facts and violations verified in the case, the Court determined that the State must "investigate […] the forced disappearance of María Claudia García [and] María Macarena Gelman, the latter as a result of the deprivation, suppression and substitution of her identity, as well as related facts."
In the order of November 19, 2020, the Court declared that the State had complied partially with the said obligation because, even though all the facts of this case had not been investigated, it was no longer in the situation of impunity that had reigned for decades, because on March 6, 2017, the 27th Criminal Trial Court had issued a judgment sentencing five former soldiers to 30 years' imprisonment as co-perpetrators of the crime of the especially aggravated homicide of María Claudia García, which was confirmed on appeal by a judgment of December 20, 2018, of the Appellate Court. This judgment is not yet final because the decision on remedies of cassation and an action on unconstitutionality filed by the convicted men are pending. The Court emphasized that this is one of the few cases of crimes committed during the dictatorship in Uruguay that has reached this procedural stage and in which convictions have been handed down. Nevertheless, the Court considered that this progress was not sufficient to satisfy the victims' right of access to justice, because the whereabouts of María Claudia García are still unknown and her remains have not been found and identified in order to return them to her family. Regarding the determination of responsibility, the Court also included various considerations on the application of the crime of especially aggravated homicide instead of the crime of forced disappearance, also in force under Uruguay's laws. In this regard, it asserted that regardless of the nomen iuris used, an investigation had been conducted aimed at determining the factual circumstances and had examined elements inherent in forced disappearance. It also noted that the application of another criminal offense had not allowed the facts that occurred to María Claudia García to remain in total impunity, and stressed that, at the domestic level, both crimes were punished with similar terms of imprisonment. In addition, the Court pointed out in the said order that, in this case, neither the investigation nor the identification of those responsible for the facts had concluded, because the said proceedings and criminal convictions only referred to the acts committed against María Claudia García, and did not encompass other facts that constituted gross human rights violations or acts that the Court had ordered the State to investigate, such as those related to the disappearance of María Macarena Gelman owing to the deprivation, suppression and substitution of her identity.

The order of November 19, 2020, can be found here (Only in Spanish).

### e) Case of Rosendo Cantú et al. v. Mexico: determination of the criminal responsibilities of two soldiers for the crimes of rape and torture

In the judgment in this case, delivered on August 31, 2010, the Court established that Mexico must "conduct, in the ordinary Jurisdiction and within a reasonable time, the investigation and, as appropriate, the criminal proceedings that are being processed in relation to the rape of Rosendo Cantú, in order to determine the corresponding criminal responsibilities and apply, as appropriate, the sanctions and other consequences established by law."

In the order of March 12, 2020, the Court noted that Mexico had been complying with and should continue implementing this measure because, on June 1, 2018, the Seventh District Court of Guerrero had delivered a judgment convicting a soldier and a corporal of the 41st Infantry Battalion for the crimes of the aggravated rape and torture of Ms. Rosendo Cantú, and sentenced them to 19 years, 5 months and 1 day of imprisonment. The Court emphasizes that this criminal judgment reflected several of the standards established in its consistent case law with regard to gender-based investigations and incorporated an ethnicity perspective when assessing the statements made by the victim in this case, who is an indigenous woman. However, it also noted that the sentences were not yet final, because both the convicted men had filed a series of appeals and, at the date of the order, these had not yet been decided. Moreover, the State itself had acknowledged that the time frame for deciding them had been exceeded. The Court also noted that a criminal investigation had been opened to determine other possible perpetrators of the acts committed

against Ms. Rosendo Cantú.

The order of March 12, 2020, can be found here (Only in Spanish).

## C.6. Application of Article 65 of the American Convention to inform the OAS General Assembly of non-compliance

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 task of protecting the practical effects of the American Convention, it urge the corresponding States to comply.

On November 18, 2020, the Court issued orders applying the said article to three cases against Venezuela: *Case of El Caracazo, Case of the Barrios Family and Case of Granier et al. (Radio Caracas Televisión)*. In the cases of *El Caracazo and the Barrios Family*, the Court took this decision taking into account that, despite the prolonged time that had passed since the expiry of the time limit established by the Court or its President for the presentation of reports on the measures taken to comply with the reparations ordered in the respective judgments and the repeated requests made by the Court or its President, Venezuela has still not submitted the reports requested. In the case of *Granier et al. (Radio Caracas Televisión)*, the Court's decision took into account that Venezuela had not presented the report on compliance with the reparations required by the 2015 judgment or responded to the requests of the President of the Court that it present this report. Added to this, the Court also considered that both the representatives of the victims in this case and the President of the Constitutional Chamber of the Venezuelan Supreme Court of Justice had informed the Court of the decision issued by that domestic court in September 2015, declaring that the judgment delivered by the Inter-American Court in this case was "unenforceable" and that, therefore, the State's agent in the international proceedings had not sent any communication or observation, despite the requests that had been made. Consequently, the Court considered that the State had not denied the failure to comply with and to ignore the judgment as a result of the said internal decision, and found that this non-compliance by the State constituted a disregard for the obligations arising from the judgment delivered by the Court and the Convention-based commitments assumed by the State.

Pursuant to the decisions taken in the said orders, when the Court has decided to apply Articles 65 of the Convention and 30 of its Statute in cases of failure to comply with its judgments, and has reported this, in its Annual Report, to the General Assembly of the Organization of American States, the Court will continue including this non-compliance in its Annual Report every year, unless the States prove that they are adopting the necessary measures to comply with the reparations ordered in the judgment, or the victims' representatives or the Commission provide information on implementation and compliance with the points of the judgment that must be assessed by this Court.

In total, at the end of 2020, **Article 65 of the American Convention has been applied in 20 cases at the stage of monitoring compliance** (2 cases for Haiti, 1 case for Nicaragua, 2 cases for Trinidad and Tobago and 15 cases for Venezuela). Of these, in 17 cases this article was applied prior to 2020 and the situation has not changed.

The list of cases is available here: here.

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

Starting in 2015, the Court has used the authority established in Article 69(2)[86] of its Rules of Procedure to request relevant information on the implementation of reparations from "other sources" that are not parties to a case. This has allowed it to obtain direct information from specific State organs and institutions that have a competence or function that is relevant for implementation of the reparation or to require its implementation at the domestic level. This information differs from that provided by the State, as a party to the proceedings, at the stage of monitoring compliance.

During 2020, the Court applied this provision in the following cases:

a) In the **Case of Canales Huapaya et al. v. Peru**, in an order of March 12, 2020, the Court found it appropriate to ask the State's Legal Advisory Council to present a report in which it provided a clear and certain definition of the precise State entities responsible for making the payments for compensation and reimbursement of costs and expenses ordered in this case, as well as the procedure for making the respective payments and the time frames granted to such entities for this purpose.

b) In the **Case of the Miguel Castro Castro Prison v. Peru**, in an order of July 29, 2020, the Court found it appropriate to ask the Peruvian Ombudsman, within his terms of reference, to present a report on medical and psychological treatment in the context of the COVID-19 health emergency, or any other information he considered relevant on the general conditions in the prisons in which the five victims in this case were incarcerated that, owing to the pandemic, could have an impact on their health care.

c) In the **Case of the Dismissed Employees of Petroperú et al. v. Peru**, in an order of November 18, 2020, the Court found it appropriate to ask the Governing Board of the Prosecutor General's Office to present a report in which it provided a clear and certain definition of the precise State entities responsible for making the payments of the compensation for pecuniary and non-pecuniary damage and the reimbursement of costs and expenses ordered in this case, as well as the procedure for making the respective payments and the time frames granted to such entities for this purpose.

d) In the **Case of the Massacres of El Mozote and neighboring places v. El Salvador**, in an order of November 19, 2020, the Court found it appropriate to ask the Salvadoran Ombudsman, or the person he appointed to represent him, to provide an oral report during the virtual public hearing to be held on March 4, 2021, with any relevant information, within his terms of reference, on compliance with the obligation to investigate ordered in the judgement in this case. In particular, he was asked to refer to the criminal procedural norms that are being applied to the criminal proceedings being processed.

e) In the **Case of Gelman v. Uruguay**, in an order of November 19, 2020, the Court found it appropriate to ask the Uruguayan National Human Rights Institution and Ombudsman's Office to present a report explaining its powers, mandate, and possible obstacles to the performance of its new competence to search for those who disappeared during the dictatorship, as well as the impact of this on compliance with the reparations ordered in this case concerning the search for and finding of María Claudia García or her mortal remains, and to ensure technical and systematized access to information in State archives on the gross human rights violations that occurred during the dictatorship.

86 This article establishes that: "[t]he 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."

## E. Involvement of domestic institutions and courts to require the execution of reparations at the domestic level

Compliance with the Court's judgment can 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 or adopt measures that lead to the implementation of the measures of reparation ordered, and compliance with the decisions made in the judgments. Their involvement can provide support to the victims at the domestic level. This is particularly important in the case of reparations that are more complex to implement and that constitute guarantees of non-repetition that benefit both the victims in 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, together with organs and 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 national human rights bodies and Ombudsmen. For example, in 2020, the Panamanian Ombudsperson took part in the public hearing held in the *case of Vélez Loor v. Panama* on the request for provisional measures *(supra)* related to compliance with the guarantee of non-repetition with regard to the conditions of the establishments that accommodate individuals whose detention is necessary and proportionate, in this particular case, for migratory reasons; specifically, regarding the situation of those who are in the La Peñita and Lajas Blancas Migrant Reception Stations in the province of Darien.

The domestic courts also play an essential role by requiring, within their terms of reference, that specific reparations ordered by the Inter-American Court are complied with or directly complying with such reparations. In orders on monitoring compliance issued during 2020, the Court emphasized rulings made by domestic courts in Barbados,[87] Mexico[88] y Peru[89], that enabled progress in, or compliance with, reparations ordered in the Court's judgments.

## F. Participation of academia and civil society

The interest shown by academia, non-governmental organizations and other members of civil society in the execution of the Inter-American Court's judgments is also extremely relevant.

The filing of amicus curiae briefs (Article 44(4) of the Court's Rules of Procedure) gives third parties, who are not party to the proceedings, an opportunity to provide the Court with their opinion or information on legal considerations concerning aspects that relate to compliance with reparations. For example, in 2020, the Court received amicus curiae in relation to compliance with the judgments in the *cases of Gomes Lund et al. ("Guerrilla de Araguaia") v. Brazil, Fernández Ortega et al. v. Mexico, and Rosendo Cantú et al. v. Mexico*.

The support that organizations and academia can provide in their respective fields is also essential, by organizing activities and initiatives that disseminate judicial standards, or others that examine, provide opinions on, and debate essential aspects and challenges relating to both the impact of, and compliance with, the Court's judgments, and also to promote such compliance. Examples of such initiatives are the seminars, meetings, workshops and projects organized to this end, as well as the "Observatories" on the inter-American system of human rights or to follow up on compliance with judgments[90]. The most important activities carried out in 2020 include:

87 *Case of DaCosta Cadogan v. Barbados. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 11, 2020, and Case of Boyce et al. v. Barbados. Monitoring compliance with judgment and Reimbursement of the Victims' Legal Assistance Fund. Order of the Inter-American Court of Human Rights of March 9, 2020.*

88 *Case of Rosendo Cantú et al. v. Mexico. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of March 12, 2020.*

89 *Case of Huilca Tecse v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of June 1, 2020.*

90 Such as: the "Observatory on the inter-American system of human rights" at the UNAM Legal Research Institute; the "Observatory of the Inter-American Association of Public Defenders (AIDEF) on compliance with the judgments of the Inter-American Court of Human Rights," and the "Permanent Observatory on compliance with judgments of the Inter-American Court of Human Rights in Argentina and monitoring of the inter-American system of

- Seminar "From the judgment in González *et al.* v. Mexico ("Cotton Field") to that of Women Victims of Sexual Torture in Atenco: progress and pending issues," co-organized among others by the Observatory on the Inter-American System of the UNAM Legal Research Institute, the National Institute of Women, and the OAS Follow-up Mechanism to the Convention of Belém do Pará (MESECVI), held at the Universidad Nacional Autónoma de México (UNAM) on March 5 and 6, 2020.

- Workshop "Rethinking Compliance and Reparations in International Law" organized by Notre Dame Reparation Design and Compliance Lab of the Kellogg Institute for International Studies of the University of Notre Dame, held virtually on May 25, 2020.

- Seminar on "The transformative impact of the inter-American system of human rights in Latin America," co-organized by the Max Planck Institute, the Inter-American Court, the Inter-American Commission, and the Rule of Law Program for Latin America of the Konrad Adenauer Foundation (KAS), held virtually on July 17, 2020.

- The "Second report prepared by the Committee of the Observatory of the Inter-American Association of Public Defenders (AIDEF) on compliance with the judgments of the Inter-American Court of Human Rights," which was presented in a webinar held on July 28, 2020.

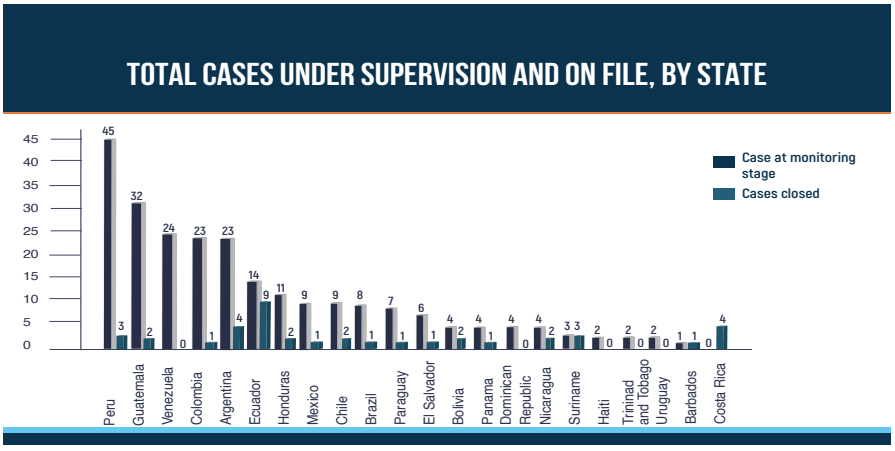
- Seminar "Ten years after the judgments in Fernández Ortega *et al.* and Rosendo Cantú *et al.* v. Mexico: progress and pending issues," organized by the Observatory on the Inter-American System of the UNAM Legal Research Institute, held virtually on August 31, 2020.

To encourage the involvement of human rights organs and institutions and national courts, together with the participation of academia and civil society, in matters relating to compliance with the reparations ordered by the Inter-American Court, above all, the guarantee of non-repetition, in March 2019, the Court adopted Decision 1/19 on "Clarifications on the publication of information contained in the files of the cases at the stage of monitoring compliance with judgment" (*supra* Section A), allowing publication of the information concerning guarantees of non-repetition in the files of cases at the stage of monitoring compliance with judgment. During 2020, the Court continued publishing the briefs presented relating to implementation of these guarantees.

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

The Court ended 2020 with 237 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.

In addition, 2020 ended with a total of 40 cases closed because each and every reparation ordered in the respective judgment had been completed.




human rights" of the Faculty of Legal and Social Sciences of the Universidad Nacional del Litoral, Argentina.

*Note: The information presented in this table is based on declarations in the orders issued by the Court. Consequently, there could be other information provided by the parties in the files that has not yet been evaluated by the Court.

The cases in which the Court is monitoring compliance with judgment appear below in two lists. The first list includes the 217 cases where compliance with judgment continues pending and is monitored by the Court. The second list contains the 20 cases in which the Court has applied Article 65 of the American Convention, without any change in the situation verified; such cases also continue at the stage of monitoring compliance with judgment.

| List of cases at the monitoring stage [excluding those to which Article 65 of the Convention has been applied] | | | |
|---|---|---|---|
| **Total** | **Number by State** | **Name of the Case** | **Date of the Judgment Ordering Reparations** |
| **ARGENTINA** | | | |
| 1 | 1 | Garrido and Baigorria | August 27, 1998 |
| 2 | 2 | Bulacio | September 18, 2003 |
| 3 | 3 | Bueno Alves | May 11, 2007 |
| 4 | 4 | Bayarri | October 30, 2008 |
| 5 | 5 | Torres Millacura et al. | August 26, 2011 |
| 6 | 6 | Fontevecchia and D'Amico | November 29, 2011 |
| 7 | 7 | Fornerón and daughter | April 27, 2012 |
| 8 | 8 | Furlan and family members | August 31, 2012 |
| 9 | 9 | Mendoza et al. | May 14, 2013 |
| 10 | 10 | Gutiérrez and familiy | November 25, 2013 |
| 11 | 11 | Argüelles et al. | November 2, 2014 |
| 12 | 12 | Gorigoitía | September 2, 2019 |
| 13 | 13 | Perrone and Preckel | October 8, 2019 |
| 14 | 14 | Romero Feris | October 15, 2019 |
| 15 | 15 | Hernández | November 22, 2019 |
| 16 | 16 | López et al. | November 25, 2019 |
| 17 | 17 | Jenkins | November 26, 2019 |
| 18 | 18 | Indigenous Communities of the Lhaka Honhat (Our Land) Association | February 6, 2020 |
| 19 | 19 | Spoltore | June 9, 2020 |
| 20 | 20 | Valle Ambrosio et al. | July 20, 2020 |
| 21 | 21 | Acosta Martínezet al. | August 31, 2020 |
| 22 | 22 | Fernández Prieto and Tumbeiro | September 1, 2020 |
| 23 | 20 | Almeida | November 17, 2020 |
| **BARBADOS** | | | |
| 24 | 1 | Dacosta Cadogan | September 24, 2009 |
| **BOLIVIA** | | | |
| 25 | 1 | Trujillo Oroza | February 27, 2002 |

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|---|---|---|---|
| 26 | 2 | Ticona Estrada *et al.* | November 27, 2008 |
| 27 | 3 | Ibsen Cárdenas and Ibsen Peña | September 1, 2010 |
| 28 | 4 | I.V. | November 30, 2016 |
| **BRAZIL** | | | |
| 29 | 1 | Ximenes Lopes | July 4, 2006 |
| 30 | 2 | Garibaldi | September 23, 2009 |
| 31 | 3 | Gomes Lund *et al.* | November 24, 2010 |
| 32 | 4 | Hacienda Brazil Verde Workers | October 20, 2016 |
| 33 | 5 | Favela Nova Brasília | February 16, 2017 |
| 34 | 6 | Xucuru Indigenous People and its members | February 5, 2018 |
| 35 | 7 | Herzog *et al.* | March 15, 2018 |
| 36 | 8 | Workers of the Fireworks Factory of Santo Antônio de Jesus | July 15, 2020 |
| **CHILE** | | | |
| 37 | 1 | Palamara Iribarne | November 22, 2005 |
| 38 | 2 | Almonacid Arellano *et al.* | September 26, 2006 |
| 39 | 3 | Atala Riffo and daughters | February 24, 2012 |
| 40 | 4 | García Lucero *et al.* | August 28, 2013 |
| 41 | 5 | Norín Catrimán *et al.* (Leaders, Members and Activist of the Mapuche Indigenous People) | May 29, 2014 |
| 42 | 6 | Maldonado Vargas *et al.* | September 2, 2015 |
| 43 | 7 | Poblete Vilches *et al.* | March 8, 2018 |
| 44 | 8 | Órdenes Guerra *et al.* | November 29, 2018 |
| 45 | 9 | Urrutia Laubreaux | August 27, 2020 |
| **COLOMBIA** | | | |
| 46 | 1 | Caballero Delgado and Santana | January 29, 1997 |
| 47 | 2 | Las Palmeras | November 26, 2002 |
| 48 | 3 | 19 Traders | July 5, 2004 |
| 49 | 4 | Gutiérrez Soler | September 12, 2005 |
| 50 | 5 | Mapiripán Massacre | September 15, 2005 |
| 51 | 6 | Pueblo Bello Massacre | January 31, 2006 |
| 52 | 7 | Ituango Massacres | July 1, 2006 |
| 53 | 8 | La Rochela Massacre | May 11, 2007 |
| 54 | 9 | Escué Zapata | July 4, 2007 |
| 55 | 10 | Valle Jaramillo *et al.* | November 27, 2008 |
| 56 | 11 | Manuel Cepeda Vargas | May 26, 2010 |
| 57 | 12 | Vélez Restrepo and family members | September 3, 2012 |
| 58 | 13 | Santo Domingo Massacre | August 19, 2013 |

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|---|---|---|---|
| 59 | 14 | Afrodescendant Communities displaced from the Río Cacarica Basin (Operation Genesis) | November 20, 2013 |
| 60 | 15 | Rodríguez Vera *et al.* | November 14, 2014 |
| 61 | 16 | Yarce *et al.* | November 22, 2016 |
| 62 | 17 | Vereda La Esperanza | August 31, 2017 |
| 63 | 18 | Carvajal *et al.* | March 13, 2018 |
| 64 | 19 | Villamizar Durán *et al.* | November 20, 2018 |
| 65 | 20 | Isaza Uribe *et al.* | November 20, 2018 |
| 66 | 21 | Omeara Carrascal *et al.* | November 21, 2018 |
| 67 | 22 | Petro Urrego | July 8, 2020 |
| 68 | 23 | Martínez Esquivia | October 6, 2020 |
| **ECUADOR** | | | |
| 69 | 1 | Benavides Cevallos | June 19, 1998 |
| 70 | 2 | Suárez Rosero | January 20, 1999 |
| 71 | 3 | Tibi | September 7, 2004 |
| 72 | 4 | Zambrano Vélez *et al.* | July 4, 2007 |
| 73 | 5 | Chaparro Álvarez and Lapo Íñiguez | November 21, 2007 |
| 74 | 6 | Vera *et al.* | May 19, 2011 |
| 75 | 7 | Kichwa Indigenous People of Sarayaku | June 27, 2012 |
| 76 | 8 | Gonzales Lluy *et al.* | September 1, 2015 |
| 77 | 9 | Flor Freire | August 31, 2016 |
| 78 | 10 | Herrera Espinoza *et al.* | September 1, 2016 |
| 79 | 11 | Vásquez Durand *et al.* | February 15, 2017 |
| 80 | 12 | Montesinos Mejía | January 27, 2020 |
| 81 | 13 | Carranza Alarcón | February 3, 2020 |
| 82 | 14 | Guzmán Albarracín *et al.* | June 24, 2020 |
| **EL SALVADOR** | | | |
| 83 | 1 | Serrano Cruz Sisters | March 1, 2005 |
| 84 | 2 | García Prieto *et al.* | November 20, 2007 |
| 85 | 3 | Contreras *et al.* | August 31, 2011 |
| 86 | 4 | Massacres of El Mozote and neighboring places | October 25, 2012 |
| 87 | 5 | Rochac Hernández *et al.* | October 14, 2014 |
| 88 | 6 | Ruano Torres *et al.* | October 5, 2015 |
| **GUATEMALA** | | | |
| 89 | 1 | "White Van" (Paniagua Morales *et al.*) | March 8, 1998 |
| 90 | 2 | Blake | January 22, 1999 |
| 91 | 3 | "Street Children" (Villagrán Morales *et al.*) | May 26, 2001 |

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|---|---|---|---|
| 92 | 4 | Bámaca Velásquez | February 22, 2002 |
| 93 | 5 | Myrna Mack Chang | November 25, 2003 |
| 94 | 6 | Maritza Urrutia | November 27, 2003 |
| 95 | 7 | Molina Theissen | July 3, 2004 |
| 96 | 8 | Plan de Sánchez Massacre | November 19, 2004 |
| 97 | 9 | Carpio Nicolle *et al.* | November 22, 2004 |
| 98 | 10 | Fermín Ramírez | July 20, 2005 |
| 99 | 11 | Raxcacó Reyes | September 15, 2005 |
| 100 | 12 | Tiu Tojín | November 26, 2008 |
| 101 | 13 | Las Dos Erres Massacre | November 24, 2009 |
| 102 | 14 | Chitay Nech *et al.* | May 25, 2010 |
| 103 | 15 | Río Negro Massacres | September 4, 2012 |
| 104 | 16 | Gudiel Álvarez *et al.* (“Diario Militar”) | November 20, 2012 |
| 105 | 17 | García and family | November 29, 2012 |
| 106 | 18 | Véliz Franco *et al.* | May 19, 2014 |
| 107 | 19 | Human Rights Defender *et al.* | August 28, 2014 |
| 108 | 20 | Velásquez Paiz *et al.* | November 19, 2015 |
| 109 | 21 | Chinchilla Sandoval *et al.* | February 29, 2016 |
| 110 | 22 | Members of the village of Chichupac and | November 30, 2016 |
| 111 | 23 | neighboring communities of Rabinal | August 24, 2017 |
| 112 | 24 | Gutiérrez Hernández *et al.* | March 9, 2018 |
| 113 | 25 | Ramírez Escobar *et al.* | August 22, 2018 |
| 114 | 26 | Coc Max *et al.* (Xamán Massacre) | August 23, 2018 |
| 115 | 27 | Martínez Coronado | May 10, 2019 |
| 116 | 28 | Ruiz Fuentes *et al.* | October 10, 2019 |
| 117 | 29 | Valenzuela Ávila | October 11, 2019 |
| 118 | 30 | Rodríguez Revolorio *et al.* | October 14, 2019 |
| 119 | 31 | Girón *et al.* | October 15, 2019 |
| 120 | 32 | Gómez Virula *et al.* | November 21, 2019 |
| **HONDURAS** | | | |
| 121 | 1 | Juan Humberto Sánchez | June 7, 2003 |
| 122 | 2 | López Álvarez | February 1, 2006 |
| 123 | 3 | Servellón García *et al.* | September 21, 2006 |
| 124 | 4 | Kawas Fernández | April 3, 2009 |
| 125 | 5 | Pacheco Teruel *et al.* | April 27, 2012 |
| 126 | 6 | Luna López | October 10, 2013 |
| 127 | 7 | López Lone *et al.* | October 5, 2015 |
| 128 | 8 | Triunfo de la Cruz Garifuna Community and its members | October 8, 2015 |

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| 129 | 9 | Punta Piedra Garifuna Community and its members | October 8, 2015 |
| 130 | 10 | Pacheco León *et al.* | November 15, 2017 |
| 131 | 11 | Escaleras Mejía *et al.* | September 26, 2018 |
| **MEXICO** | | | |
| 132 | 1 | González *et al.* ("Cotton Field") | November 16, 2009 |
| 133 | 2 | Radilla Pacheco | November 23, 2009 |
| 134 | 3 | Fernández Ortega *et al.* | August 30, 2010 |
| 135 | 4 | Rosendo Cantú *et al.* | August 31, 2010 |
| 136 | 5 | Cabrera García and Montiel Flores | November 26, 2010 |
| 137 | 6 | García Cruz and Sánchez Silvestre | November 26, 2013 |
| 138 | 7 | Trueba Arciniega *et al.* | November 27, 2018 |
| 139 | 8 | Women Victims of Sexual Torture in Atenco | November 28, 2018 |
| 140 | 9 | Alvarado Espinoza *et al.* | November 28, 2018 |
| **NICARAGUA** | | | |
| 141 | 1 | Acosta *et al.* | March 25, 2017 |
| 142 | 2 | V.R.P.,V.P.C. *et al.* | March 8, 2018 |
| 143 | 3 | Roche Azaña *et al.* | June 3, 2020 |
| **PANAMA** | | | |
| 144 | 1 | Baena Ricardo *et al.* | November 2, 2001 |
| 145 | 2 | Heliodoro Portugal | August 12, 2008 |
| 146 | 3 | Vélez Loor | November 23, 2010 |
| 147 | 4 | Kuna indigenous People of Madungandi and Emberá of Bayano and their members | October 14, 2014 |
| **PARAGUAY** | | | |
| 148 | 1 | "Juvenile Reeducation Institute" | September 2, 2004 |
| 149 | 2 | Yakye Axa Indigenous Community | June 17, 2005 |
| 150 | 3 | Sawhoyamaxa Indigenous Community | March 29, 2006 |
| 151 | 4 | Goiburú *et al.* | September 22, 2006 |
| 152 | 5 | Vargas Areco | September 26, 2006 |
| 153 | 6 | Xákmok Kásek Indigenous Community | August 24, 2010 |
| 154 | 7 | Noguera *et al.* | March 9, 2020 |
| **PERU** | | | |
| 155 | 1 | Neira Alegría *et al.* | September 19, 1996 |
| 156 | 2 | Loayza Tamayo | November 27, 1998 |
| 157 | 3 | Castillo Páez | November 27, 1998 |
| 158 | 4 | Constitutional Court | January 31, 2001 |
| 159 | 5 | Ivcher Bronstein | February 6, 2001 |
| 160 | 6 | Cesti Hurtado | May 31, 2001 |
| 161 | 7 | Barrios Altos | November 30, 2001 |
| 162 | 8 | Cantoral Benavides | December 3, 2001 |
| 163 | 9 | Durand and Ugarte | December 3, 2001 |

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|---|---|---|---|
| 164 | 10 | "Five Pensioners" | February 28, 2003 |
| 165 | 11 | Gómez Paquiyauri Brothers | July 8, 2004 |
| 166 | 12 | De La Cruz Flores | November 18, 2004 |
| 167 | 13 | Huilca Tecse | March 3, 2005 |
| 168 | 14 | Gómez Palomino | November 22, 2005 |
| 169 | 15 | García Asto and Ramírez Rojas | November 25, 2005 |
| 170 | 16 | Acevedo Jaramillo *et al.* | February 7, 2006 |
| 171 | 17 | Baldeón García | April 6, 2006 |
| 172 | 18 | Dismissed Congressional Employees (Aguado | November 24, 2006 |
| 173 | 19 | Alfaro *et al.*) | November 25, 2006 |
| 174 | 20 | La Cantuta | November 29, 2006 |
| 175 | 21 | Cantoral Huamaní and García Santa Cruz | July 10, 2007 |
| 176 | 22 | Acevedo Buendía *et al.* ("Discharged and Retired Employees of the Comptroller's Office") | July 1, 2009 |
| 177 | 23 | Anzualdo Castro | September 22, 2009 |
| 178 | 24 | Osorio Rivera and family | November 26, 2013 |
| 179 | 25 | Case of J | November 27, 2013 |
| 180 | 26 | Tarazona Arrieta *et al.* | October 15, 2014 |
| 181 | 27 | Espinoza Gonzáles | November 20, 2014 |
| 182 | 28 | Cruz Sánchez *et al.* | April 17, 2015 |
| 182 | 29 | Canales Huapaya *et al.* | June 24, 2015 |
| 184 | 30 | Wong Ho Wing | June 30, 2015 |
| 185 | 31 | Campesino Community of Santa Bárbara | September 1, 2015 |
| 186 | 32 | Galindo Cárdenas *et al.* | October 2, 2015 |
| 187 | 33 | Quispialaya Vilcapoma | November 23, 2015 |
| 188 | 34 | Tenorio Roca *et al.* | June 22, 2016 |
| 189 | 35 | Pollo Rivera *et al.* | October 21, 2016 |
| 190 | 36 | Zegarra Marín | February 15, 2017 |
| 191 | 37 | Lagos del Campo | August 31, 2017 |
| 192 | 38 | Dismissed Employees of PetroPeru *et al.* | November 23, 2017 |
| 193 | 39 | Munárriz Escobar *et al.* | August 20, 2018 |
| 194 | 40 | Terrones Silva *et al.* | September 26, 2018 |
| 195 | 41 | Muelle Flores | March 6, 2019 |
| 196 | 42 | Rosadio Villavicencio | October 14, 2019 |

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|---|---|---|---|
| 197 | 43 | National Association of Discharged and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT) | November 21, 2019 |
| 198 | 44 | Azul Rojas Marín *et al.* | March 12, 2020 |
| 199 | 45 | Casa Nina | November 24, 2020 |
| **DOMINICAN REPUBLIC** | | | |
| 200 | 1 | Yean and Bosico Girls | September 8, 2005 |
| 201 | 2 | González Medina and family member | February 27, 2012 |
| 202 | 3 | Nadege Dorzema *et al.* | October 24, 2012 |
| 203 | 4 | Expelled Dominicans and Haitian | August 28, 2014 |
| **SURINAME** | | | |
| 204 | 1 | Moiwana Community | June 15, 2005 |
| 205 | 2 | Saramaka People | November 28, 2007 |
| 206 | 3 | Kaliña and Lokono Peoples | November 25, 2015 |
| **URUGUAY** | | | |
| 207 | 1 | Gelman | February 24, 2011 |
| 208 | 2 | Barbani Duarte *et al.* | October 13, 2011 |
| **VENEZUELA** | | | |
| 209 | 1 | Chocrón Chocrón | July 1, 2011 |
| 210 | 2 | Hermanos Landaeta Mejías *et al.* | August 27, 2014 |
| 211 | 3 | Ortiz Hernández *et al.* | August 22, 2017 |
| 212 | 4 | San Miguel Sosa *et al.* | February 8, 2018 |
| 213 | 5 | López Soto *et al.* | September 26, 2018 |
| 214 | 6 | Álvarez Ramos | August 30, 2019 |
| 215 | 7 | Díaz Loreto *et al.* | November 19, 2019 |
| 216 | 8 | Olivares Muñoz *et al.* | November 10, 2020 |
| 217 | 9 | Mota Abarullo *et al.* | November 18, 2020 |

## List of cases at the monitoring stage

## [in which Article 65 of the Convention and the situation verified has not changed]

| Total | Number by State | Name of Case | Date of Judgment Ordering Reparations |
|---|---|---|---|
| **HAITI** | | | |
| 1 | 1 | Yvon Neptune | May 6, 2008 |
| 2 | 2 | Fleury *et al.* | November 23, 2011 |

| | | | |
|---|---|---|---|
| **NICARAGUA** | | | |
| 3 | 1 | Yatama | June 23, 2005 |
| **TRINIDAD AND 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 | El Caracazo | August 29, 2002 |
| 8 | 3 | Blanco Romero *et al.* | November 28, 2005 |
| 9 | 4 | Montero Aranguren *et al.* (Retén de Catia) | July 5, 2006 |
| 10 | 5 | Apitz Barbera *et al.* ("First Administrative Court") 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 |
| 16 | 11 | Barrios Family | November 24, 2011 |
| 17 | 12 | Díaz Peña | June 26, 2012 |
| 18 | 13 | Uzcátegui *et al.* | September 3, 2012 |
| 19 | 14 | Granier *et al.* (Radio Caracas Television) | June 22, 2015 |
| 20 | 15 | Granier y otros (Radio Caracas Television) | 22 de junio de 2015 |

**List of cases closed due to compliance with judgment**

| No. Total | Cases | Date of Judgment Ordering Reparations | Order to close the case |
|---|---|---|---|
| **ARGENTINA** | | | |
| 1 | 1. Kimel | May 2, 2008 | February 5, 2013 |
| 2 | 2. Mohamed | November 23, 2012 | November 3, 2015 |
| 3 | 3. Mémoli | August 22, 2013 | February 10, 2017 |
| 4 | 4. Cantos | November 28, 2002 | November 14, 2017 |
| **BARBADOS** | | | |
| 5 | 1. Case of Boyce *et al.* | January 30, 2014 | March 9, 2020 |
| **BOLIVIA** | | | |
| 6 | 1. Pacheco Tineo Family | November 25, 2013 | April 17, 2015 |
| 7 | 2. Andrade Salmón | December 1, 2016 | February 5, 2018 |
| **BRAZIL** | | | |
| 8 | 1. Escher *et al.* | July 6, 2009 | June 19, 2012 |
| **CHILE** | | | |
| 9 | 1. "The Last Temptation of Christ" (Olmedo Bustos *et al.*) | February 5, 2001 | November 28, 2003 |

| | | | |
|---|---|---|---|
| 10 | 2. Claude Reyes *et al.* | September 19, 2006 | November 24, 2008 |
| **COLOMBIA** | | | |
| 11 | 1. Duque | February 26, 2016 | March 12, 2020 |
| **COSTA RICA** | | | |
| 12 | 1. Herrera Ulloa | July 2, 2004 | November 22, 2010 |
| 13 | 2. Amrhein *et al.* | April 25, 2018 | |
| 14 | 3. Artavia Murillo *et al.* ("In vitro fertilization") | November 28, 2012 | November 22, 2019 |
| 15 | 4. Gómez Murillo *et al.* | November 29, 2016 | November 22, 2019 |
| **ECUADOR** | | | |
| 16 | 1. Acosta Calderón | June 24, 2005 | February 6, 2008 |
| 17 | 2. Albán Cornejo *et al.* | November 22, 2007 | August 28, 2015 |
| 18 | 3. Salvador Chiriboga | March 3, 2011 | May 3, 2016 |
| 19 | 4. Mejía Idrovo | July 5, 2011 | September 4, 2012 |
| 20 | 5. Suárez Peralta | May 21, 2013 | August 28, 2015 |
| 21 | 6. Constitutional Tribunal (Camba Campos *et al.*) | August 28, 2013 | June 23, 2016 |
| 22 | 7. García Ibarra *et al.* | November 17, 2015 | November 14, 2017 |
| 23 | 8. Valencia Hinojosa *et al.* | November 29, 2016 | March 14, 2018 |
| 24 | 9. Supreme Court of Justice (Quintana Coello *et al.*) | August 23, 2013 | January 30, 2019 |
| **EL SALVADOR** | | | |
| 25 | 1. Colindres Schonenberg | February 4, 2019 | November 18, 2020 |
| **GUATEMALA** | | | |
| 26 | 1. Maldonado Ordóñez | May 3, 2016 | August 30, 2017 |
| 27 | 2. Villaseñor Velarde *et al.* | February 5, 2019 | June 24, 2020 |
| **HONDURAS** | | | |
| 28 | 1. Velásquez Rodríguez | July 21, 1989 | September 10, 1996 |
| 29 | 2. Godínez Cruz | September 10, 1993 | September 10, 1996 |
| **MEXICO** | | | |
| 30 | 1. Castañeda Gutman | August 6, 2008 | August 28, 2013 |
| **NICARAGUA** | | | |
| 31 | 1. Genie Lacayo | January 21, 1997 | August 29, 1998 |
| 32 | 2. Mayagna (Sumo) Awas Tingni Community | August 31, 2001 | April 3, 2009 |
| **PANAMA** | | | |
| 33 | 1. Tristán Donoso | January 27, 2009 | September 1, 2010 |
| **PARAGUAY** | | | |

| | | | |
|---|---|---|---|
| 34 | 1. Ricardo Canese | August 31, 2004 | August 6, 2008 |
| **PERU** | | | |
| 35 | 1. Castillo Petruzzi *et al.* | May 30, 1999 | September 20, 2016 |
| 36 | 2. Lori Berenson Mejía | November 25, 2004 | June 20, 2012 |
| 37 | 3. Abrill Alosilla *et al.* | November 21, 2011 | May 22, 2013 |
| **SURINAME** | | | |
| 38 | 1. Aloeboetoe *et al.* | July 20, 1989 | February 5, 1997 |
| 39 | 2. Gangaram Panday | January 21, 1994 | November 27, 1998 |
| 40 | 3. Liakat Ali Alibux | January 30, 2014 | March 9, 2020 |

# Provisional Measures

# VI. Provisional measures

During 2020, the Court issued 25 orders on provisional measures. These orders have different purposes, such as: (i) adoption of provisional or urgent measures; (ii) continuation or, when appropriate, expansion of provisional measures; (iii) total or partial lifting of measures; (iv) rejection of requests to expand provisional measures, and (vi) rejection of requests for provisional measures. In addition, two public hearings on provisional measures were held during the year[91].

## A. Adoption of new provisional measures

### 1. Case of Vélez Loor v. Panama

On November 23, 2010, the Court delivered a judgment on preliminary objections, merits, reparations and costs in the case of Vélez Loor v. Panama. At the stage of monitoring compliance with the judgment, the victim's representatives presented a request for provisional measures for measures of protection to be put in place "for the migrants retained in [...] the La Peñita Center in the Darien region, in order to avoid irreparable harm to their rights to life, health and personal integrity" in the context of the current health crisis caused by the COVID-19 pandemic.

In an order of May 26, 2020, the President of the Inter-American Court considered that even though, as a general rule, the information provided on measures of reparation is assessed in the context of monitoring compliance with judgment, exceptionally the Court had adopted provisional measures in situations of special gravity. In this case, the President found that the exceptional circumstances existed to warrant examining whether the requirements had been met to adopt provisional measures, having verified that these related to alleged facts concerning the absence of measures to prevent contagion and the lack of medical care for migrants retained in the La Peñita Center in the context generated by the COVID-19 pandemic, which could jeopardize the health, personal integrity and life of a number of individuals.

In an order of July 29, 2020, the Inter-American Court assessed the information presented by the victims' representatives, the State of Panama, and the Inter-American Commission, in writing and during a virtual public hearing held on July 9, 2020. The Panamanian Ombudsman took part in the public hearing as "another source of information (Art. 27(8) of the Court's Rules of Procedure), distinct from the information provided by the State as a party to the proceeding on provisional measures. After examining the information presented, as well as the facts and circumstances that substantiated the request, the Court decided to ratify the order of the President on the adoption of urgent measures of May 26, 2020. The Court reiterated that, on April 9, 2020, it had issued a statements on "COVID-19 and Human Rights: the problems and challenges that must be addressed from the perspective of human rights and respect for international obligations." In this statement, the Court has indicated that it was "especially important to ensure, promptly and appropriately, the rights to life and health of everyone subject to the State's Jurisdiction without any discrimination, including older persons, migrants, refugees and stateless persons, and members of indigenous communities." It therefore found it necessary to order urgent measures to protect the health, life and personal integrity of the individuals who were in the La Peñita Migrant Reception Station, as well as those who had been transferred to Laja Blanca. It also required the State of Panama to ensure, immediately and effectively, access to essential health services, without discrimination, to all those who were in the La Peñita and Laja Blanca Migrant Reception Stations, including early detection and treatment of COVID-19.

Here are the orders of the President of May 26, 2020 (Only in Spanish) and of the Court of July 29, 2020 (Only in Spanish).

91 On March 13, a hearing was held on provisional measures in the Matter of the Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region with regard to Nicaragua, and on July 9, 2020, a hearing was held on the urgent measures issued in the case of Vélez Loor v. Panama.

## 2. Case of the Triunfo de la Cruz and Punta Piedra Garifuna Communities v. Honduras

On October 8, 2015, the Court delivered a judgment on merits, reparations and costs in the case of the Punta Piedra Garifuna Community and its Members. During the stage of monitoring compliance with the judgment, the victims' representatives presented a request for provisional measures in favor of the members of the Triunfo de la Cruz and Punta Piedra communities in Honduras and, in particular, in favor of four individuals who, together, carry out actions to defend the rights of the Garifuna people and, specifically, their territories.

In an order of August 6, 2020, the President of the Inter-American Court, having examined the information presented and verified the facts, considered that the requirements had been met of extreme gravity, urgency and the possibility of irreparable harm to the rights to life and integrity of the members of the Punta Piedra community who, together, carry out actions to defend the rights of the Garifuna people. Consequently, she determined that it was appropriate to admit the request for urgent measures in favor of those individuals so that the State would protect their rights to life and integrity.

In an order of September 2, 2020, the Court noted that the facts reported by the representatives were recent and that they involved possible forced disappearances of individuals, who were, prima facie, in a situation of extreme gravity and urgency, with the possibility of suffering irreparable harm because their life, and personal liberty and integrity were threatened. The Court considered that this situation had not changed since the President of the Court ordered the adoption of urgent measures on August 6, 20201. Therefore, it found it appropriate to ratify the August 2020 order of the President and determine the adoption of provisional measures requiring the State to adopt any necessary measures of protection and also, as soon as possible, to investigate and discover the whereabouts of Milton Joel Martínez Álvarez, Suami Aparicio Mejía García, Gerardo Misael Trochez Calix, and Alberth Sneider Centeno.

Here are the orders of the President of August 6, 2020 (Only in Spanish) of the Court of September 2, 2020 (Only in Spanish).

## 3. Case of Vicky Hernández et al. v. Honduras

On November 11, 2020, during the processing of the case of Vicky Hernández v. Honduras, the presumed victims' representatives informed the Court that, during the public hearing in the case, the mother of Vicky Hernández had received telephone calls from a person who identified himself as a representative of the National Police of Honduras, and also that a member of the "Cattrachas" Lesbian Network had been jeered at and insulted on the street.

In an order of November 12, 2020, the Court considered that the actions reported by the representatives could constituted acts of intimidation and threats against participants and presumed victims in the proceedings before it. In addition, it considered it noteworthy that those facts had occurred precisely at the same time as the public hearing in this case, which was transmitted virtually on diverse platforms, and that, also, some of the actions had been carried out by a Honduran law enforcement agent. It also indicated that this could be contrary to the provisions of Article 53 of the Court's Rules of Procedure which establish the prohibition of taking reprisals against participants in proceedings before the Court and their families.

Consequently, the Court noted that, prima facie, a situation of extreme gravity and urgency existed with the possibility of irreparable harm to the family of Vicky Hernández and the members of the "Cattrachas" Lesbian Network. Therefore, the Court deemed it pertinent to admit the representatives' request for provisional measures and to order the State to adopt, immediately, all necessary measures to protect the life and personal integrity of the family of Vicky Hernández, as well as that of the members of the "Cattrachas" Lesbian Network, which is litigating this case.
Here is the order of November 12, 2020 (Only in Spanish).

## B. Adoption of urgent measures, subsequent lifting of those measures and channeling them through an enhanced monitoring of compliance

### 1. Case of Ruiz Fuentes et al. v. Guatemala

On October 10, 2019, the Court delivered a judgment on preliminary objection, merits, reparations and costs in the case of Ruiz Fuentes *et al.* v. Guatemala. During the stage of monitoring compliance, the victims' representatives presented a request for provisional measures in order "to protect the rights to life and to personal integrity of three members of the Special Prosecution Service against Impunity (FECI) in Guatemala involved in the investigations into the death of Hugo Humberto Ruiz Fuentes." In an order of April 8, 2020, the President of the Court determined that there was sufficient evidence to determine, prima facie, the existence of a situation of extreme gravity and urgency and, therefore, the need for Guatemala to adopt, immediately and in an individualized manner, all necessary measures to avoid irreparable harm to the rights to life and to personal integrity of Prosecutors "A" and "B" and Assistant Prosecutor "C." Therefore, the President deemed it pertinent to order issue urgent measures and require the State to inform the Court.

In an order of September 2, 2020, the Court took into account that, after the President of the Court had adopted the urgent measures on April 8, 2020, the State presented information on the measures of protection provided to the three FECI prosecutors. The Court noted that these prosecutors now had security measures and, therefore, determined that "at the present time, it is not appropriate to order provisional measures in this case, but rather to conduct an enhanced monitoring of compliance with the obligation to investigate ordered in the judgment." Therefore, although the Court "rejected the request for provisional measures," it decided "to conduct enhanced monitoring of the measure concerning the investigation, identification, prosecution and punishment, as appropriate, of those responsible for the death of Hugo Humberto Ruiz Fuentes ordered in the judgement, as regards the obligation to ensure that the agents of justice (Prosecutors "A" and "B" and Assistant Prosecutor "C") involved in the investigations have adequate guarantees for their safety."

Here are the orders of the President of April 8, 2020 (Only in Spanish) and of the Court of September 2, 2020 (Only in Spanish).

## C. Expansion of provisional measures and monitoring by orders

### 1. Matter of the Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region with regard to Nicaragua

On September 1, 2016, the Court issued an order in which it ordered the State of Nicaragua, inter alia: (i) to eradicate the violence and to protect the life, personal integrity and territorial integrity and cultural identity of the members of the Miskitu indigenous people who inhabit the communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo and Francia Sirpi, and (ii) to establish an agency or body to diagnose the sources of the conflict and propose possible ways to keep the peace and resolve the conflict.

Subsequently, the Court issued orders on November 23, 2016, June 30, 2017, August 22, 2017, and August 23, 2018, in which it ordered the State, inter alia: (i) to expand the provisional measures in order to include the members of the Miskitu indigenous people who inhabit the communities of Esperanza Río Coco and Esperanza Río Wawa, as well as to those who have had to abandon these communities and wish to return; (ii) to include these communities in the assessment of the current situation of risk of these communities in relation to the report before the Court, and (iii) to expand the provisional measures so that they include Lottie Cunningham Wrem and José Medrano Coleman.

In an order of February 6, 2020, in response the IACHR request to expand the provisional measures to the members of the Miskitu indigenous people who inhabit the community of Santa Clara, the Court noted that there was evidence of a situation of extreme gravity and urgency, with the reasonable possibility that irreparable harm would continue

occurring to the rights to life and personal integrity of the members of the community of Santa Clara. Therefore, the Court ordered that the provisional measures ordered in this matter be expanded and for the State of Nicaragua to include, immediately, the members of the Miskitu indigenous people who inhabit the community of Santa Clara, as well as the individuals who have presumably had to abandon that community and wish to return.

Here are the orders of: September 1, 2016, November 23, 2016, June 30, 2017, August 22, 2017, August 23, 2018 and February 6, 2020. (Only in Spanish).

### 2. Case of the 19 Traders v. Colombia

On July 5, 2004, the Court delivered a judgment on merits, reparations and costs in the case of the 19 Traders v. Colombia. Subsequently, the President of the Court adopted orders on April 28, 2006, and February 6, 2007, and the Court on September 3, 2004, July 4, 2006, May 12, 2007, July 8, 2009, August 26, 2010, and June 26, 2012. These orders required the adoption of the necessary measures to protect the rights to life and personal integrity of certain victims and family members in the case.

In an order of April 2, 2020, the President of the Inter-American Court found that, pursuant to prima facie standards, the requirements existed of extreme gravity, urgency and imminent danger of irreparable harm to the rights of Nery del Socorro Flórez Contreras and her family that required protection by the urgent mechanism of provisional measures. Consequently, she considered it appropriate to expand the existing provisional measures in order to include the said persons as beneficiaries of these measures.

In an order of June 1, 2020, the Court decided "[t]o ratify fully the order of the President of April 2, 2020, in which the provisional measures issues in this case were expanded and, therefore, require the State of Colombia to include Nery del Socorro Flórez Contreras and the members of her family, immediately, within the measures required in the order of July 30, 2004."

Here are the orders of the President: April 28, 2006, February 6, 2007, and April 2, 2020 and those of the Court: September 3, 2004, July 4, 2006, May 12, 2007, July 8, 2009, August 26, 2010, June 26, 2012 and June 1, 2020. (Only in Spanish).

### 3. Case of Fernández Ortega v. Colombia

On August 30, 2010, the Court delivered a judgment on preliminary objection, merits, reparations and costs in the case of Fernández Ortega v. Colombia. During the processing of the contentious case, in orders of the Court and of its President of April 9 and 30 and December 23, 2009, the State was ordered "to adopt immediately any supplementary measures required to protect the life and integrity of the beneficiaries." At the stage of monitoring compliance these measures were maintained by orders of November 23, 2010, May 31, 2011, February 20, 2012, February 23, 2016, and February 7, 2017.

In orders of March 13 and November 22, 2019, and June 10, 2020, the Court required the State to maintain the 110 provisional measures ordered in favor of Inés Fernández Ortega and her family, Obtilia Eugenio Manuel and her family, the 40 members of the Tlapaneco/Me'phaa Indigenous Organization (OPIM) and 10 members of the Montaña Tlachinollan Human Rights Center.

Here are the orders of: March 13, 2019, November 22, 2019, and June 10, 2020. (Only in Spanish).

### 4. Matter of Members of the Choréachi Indigenous Community with regard to Mexico

On June 10, 2020, the Court issued an order in which it required the State to continue implementing the measures of protection that had already been put in place and to adopt, immediately, any other actions needed to protect and ensure respect for the life and personal integrity of the members of the Choréachi indigenous community located in the Sierra Tarahumara, state of Chihuahua. These measures should be planned and implements with the participation of

the beneficiaries of their representatives.

After evaluating the information that had been provided, in the order of June 10, 2020, the Court emphasized the situation of significant risk and vulnerability that persisted for the beneficiaries, due to the extremely serious acts that had occurred following the order of March 25, 2017, and also the difficulty and danger for those affected to make the respective complaints. The Court also considered that the situation of extreme gravity and urgency subsisted, as well as the reasonable possibility that actions causing irreparable harm to the beneficiaries would continue, which made it necessary to require the State to continue taking the necessary measures to protect the life and personal integrity of the members of the Choréachi indigenous community, and immediately implement all those other actions that it considered appropriate to this end. In addition, the Court found it necessary to repeat to the State that the planning and implementation of the measures of protection must be carried out with the participation of the beneficiaries or their representatives, that criteria of cultural pertinence be observed, and that the necessary coordination be organized with the different authorities with competence in the area of security and justice.

Here are the orders of March 25, 2017, and June 10, 2020. (Only in Spanish).

### 5. Case of Mack Chang et al. v. Guatemala

On November 25, 2003, the Court delivered a judgment on merits, reparations and costs in the case of Mack Chang v. Guatemala. In orders of January 26, August 14 and November 16, 2009, May 14, 2014, January 26, 2015, and March 5, 2019, the Court ordered the State to adopt and implement all necessary measures to protect the life and personal integrity of Helen Mack Chang and the members of the Myrna Mack Chang Foundation.

In the order of June 24, 2020, the Court considered that a situation of extreme gravity and urgency persists, as well as the need to prevent irreparable harm. Consequently, the Court found it appropriate to maintain the provisional measures in favor of Helen Mack Chang and of the members of the Myrna Mack Chang Foundation. The Court therefore required the State to maintain and, if appropriate, adopt and implement all necessary measures to protect the life and personal integrity of these beneficiaries.

Here are the orders of January 26, 2009, August 14, 2009, November 16, 2009, May 14, 2014, January 26, 2015, March 5, 2019 and June 24, 2020 (Only in Spanish).

### 6. Matter of Certain Venezuelan Prisons; Humberto Prado and Marianela Sánchez Ortiz and Family

In orders of November 24, 2009, July 6, 2011, September 6, 2012, and November 13, 2015, the Court decided, inter alia: "[t]o reiterate to the State that it must adopt all necessary measures to protect the life and personal integrity of […] Humberto Prado."

In the order of July 8, 2020, the Court assessed the situation and the information presented by the representatives, the State and the Commission and considered that the State must keep in effect the order to adopt measures of protection for Humberto Prado. It also considered that the State should implement the provisional measures in force in favor of Humberto Prado extensively to cover the members of his family also.

Here are the orders of November 24, 2009, July 6, 2011, September 6, 2012, November 13, 2015, and July 8, 2020 (Only in Spanish).

### 7. Matter of Almanza Suárez with regard to Colombia

In orders of the President of July 22, August 14 and December 22, 1997, May 12 and August 6, 1998, and July 17, 2000, as well as of the Court of November 11, 1997, January 21, June 19 and August 29, 1998, August 10, October 11 and November 12, 2000, May 30, 2001, February 8, 2008, May 22, 2013, and November 15, 2017, the Court ordered and decided to maintain the measures ordered in favor of Luz Elsia Almanza Suárez in order to protect her life and

personal integrity.

In the order of October 8, 2020, the Court assessed whether the situation of extreme gravity and urgency persisted, as well as the possibility of irreparable harm for the beneficiary. The Court also examined the beneficiary's protection plan and safety measures, and affirmed the need to continue the measure. Therefore, the Court deemed it pertinent to maintain the provisional measures ordered in favor of Luz Elsia Almanza Suárez, and required the State to continue adopting all necessary measures to protect her life and personal integrity.

Here is the order of October 8, 2020 (Only in Spanish).

### 8. Matter of Castro Rodríguez with regard to Mexico

In orders of February and August 23, 2013, June 23, 2015, and November 14, 2017, the Court ordered Mexico to adopt provisional measures to protect the rights to life and personal integrity of Luz Estela Castro Rodríguez.

In the order of November 18, 2020, the Court considered that sufficient grounds existed to maintain in effect the provisional measures ordered in favor of Ms. Castro Rodríguez. The Court also required the State to make and forward a current risk assessment with regard to Ms. Castro Rodríguez, taking into account the beneficiary's new employment in order to assess whether the situation of extreme gravity and urgency persisted or had concluded in relation to the risk of irreparable harm to her.

Here is the order of November 18, 2020 (Only in Spanish).

## D. Request for provisional measures denied and channeled through enhanced monitoring of compliance

### 1. Case of the Miguel Castro Castro Prison v. Peru

On November 25, 2006, the Court delivered a judgment on merits, reparations and costs in the case of the Miguel Castro Castro Prison v. Peru. At the stage of monitoring compliance with the judgment, the victims' representatives presented a request for provisional measures in order to protect the rights to health, personal integrity, and life of "four victims and one family member" in the case of the Miguel Castro Castro Prison who were in three Peruvian prisons, owing to the State's supposed failure to adopt adequate measures in the context of the COVID-19 pandemic.

Although, in general, the information related to compliance with the measures of reparation ordered in the judgment should be evaluated in the context of monitoring compliance with judgment, exceptionally the Court has adopted provisional measures in the presence of particularly grave circumstances. In this case, the Court considered that exceptional circumstances existed that warranted an examination of whether the requirements were met to adopt provisional measures. After assessing the situation and the information presented, the Court considered that in this case, for the moment, it was not appropriate to order provisional measures but rather to carry out enhanced monitoring, as indicated below. This is due to the specific actions taken by the State with regard to the five victims and the general measures adopted for the country's prison population as a whole in order to reduce overcrowding, as well as the monitoring that the Ombudsman has been carrying out, and the possibility of filing effective remedies before the Peruvian courts, seeking that the prison authorities conduct the necessary testing and provide the corresponding medical care, which they have been receiving and which the State indicated that it will continue providing.

Here is the order of July 29, 2020 (Only in Spanish).

## E. Requests for provisional measures denied

### 1. Case of Cuya Lavi et al. v. Peru

During the processing of the contentious case of Cuya Lavi *et al.* v. Peru, the representative of presumed victims, Jean Aubert Díaz Alvarado and Marta Silvana Rodríguez Ricse, asked the Court to order a "provisional reinstatement" of the presumed victims.

In the order of March 12, 2020, the Court considered that, having examined the situation and the circumstances on which the requested was founded, it was not possible to appreciate, prima facie in this case that the presumed victims were, in the terms required by Article 63(2) of the American Convention, in a situation of "extreme gravity and urgency" related to the need to avoid "irreparable harm" and, also, that the purpose of the measure was the same as the purpose of the merits of the matter which the Court will have to clarify in its judgment. Therefore, the Court decided to deny the request for provisional measures.

Here is the order of March 12, 2020 (Only in Spanish).

### 2. Case of Urrutia Laubreaux v. Chile

During the processing of the contentious case of Urrutia Laubreaux v. Chile, the presumed victim's representative presented a request for provisional measures "for the Court to order the State of Chile to adopt the necessary measures to ensure the rights to life, personal integrity and freedom of expression of Judge Daniel David Urrutia Laubreaux."

In the order of March 12, 2020, the Court considered that, based on the facts presented, it was not possible to appreciate, *prima facie*, that the situation of the presumed victim met the requirements of Article 63(2) of the American Convention, of "extreme gravity and urgency" related to the possibility of "irreparable harm." Therefore, it decided to deny the request for provisional measures.

Here is the order of March 12, 2020 (Only in Spanish).

### 3. Cases of the Pueblo Bello Massacre, the Ituango Massacres, and Valle Jaramillo et al. v. Colombia

The Court delivered judgments on January 31, 2006, in the case of the Pueblo Bello Massacre; July 1, 2006, in the case of the Ituango Massacres, and November 27, 2008, in the case of Valle Jaramillo *et al.*. At the stage of monitoring compliance, the victims' representatives presented a request for provisional measures to protect the "right of access to justice [of the victims] in [these three] cases," owing to "the imminent deportation" from the United States to Italy of a former leader of the United Self-Defense Forces of Colombia (a paramilitary group that had taken part in the facts of these three cases), "due to an error made by Colombia when processing the extradition request."
In the order of September 3, 2020, the Court determined that the information provided by the representatives should be assessed in the context of monitoring compliance with the judgments in these three cases and not based on an analysis of the Convention's requirements for provisional measures. Therefore, the Court declared that "the request for provisional measures presented by the victims' representatives in these three cases was inadmissible, because the matter submitted to the Court was not an issue for provisional measures in the terms of Article 63(2) of the American Convention on Human Rights."

Here is the order of September 3, 2020 (Only in Spanish).

### 4. Case of Galindo Cárdenas et al. v. Peru

On October 2, 2015, the Court delivered judgment on preliminary objections, merits, reparations and costs in the case of Galindo Cárdenas *et al.* v. Peru. At the stage of monitoring compliance with the judgment, the victim in the case

presented a request for provisional measures owing to the alleged "absence of judicial guarantees" in the internal criminal investigation of the presumed perpetration of the crimes of torture and deprivation of liberty against him, as well as "non-compliance with the pecuniary reparations" ordered in the judgment.

In an order of September 3, 2020, the Court determined that the information and arguments presented by the victim in the request for provisional measures should be evaluated in the context of monitoring compliance with the judgment and not by analyzing the Convention's requirements for provisional measures. Therefore, the Court decided "[t]o dismiss the request for provisional measures […], because the matter submitted to the Court is not an issue for provisional measures in the terms of Article 63(2) of the American Convention on Human Rights."

Here is the order of September 3, 2020 (Only in Spanish).

### 5. Case of Molina Theissen v. Guatemala

On May 4 and July 3, 2004, respectively, the Court delivered judgments on merits, and on reparations and costs in the case of Molina Theissen v. Guatemala. At the stage of monitoring compliance with the judgment, the victim's representatives presented a request for provisional measures ordering "the Guatemalan State to ensure the victim's access to justice and, to avoid setbacks in compliance with its international obligations, to refrain from taking measures aimed at ensuring the impunity of those convicted in this case."

In the order of September 3, 2020, the Court determined that the information and arguments submitted by the victim's representatives and by the State should be evaluated in the context of monitoring compliance with the judgment and not by analyzing the Convention's requirements for provisional measures. Therefore, the Court found it inappropriate to adopt the provisional measures requested in this case.

Here is the order of September 3, 2020 (Only in Spanish).

### 6. Case of Acevedo Jaramillo et al. v. Peru

On February 7, 2006, the Court delivered judgment in the case Acevedo Jaramillo *et al.* v. Peru. At the stage of monitoring compliance with the judgment, one of the common interveners of the representatives of the victims asked the Court to order the adoption of provisional measures for an individual identified as a "former employee of the metropolitan municipality of Lima," due to her "critical health situation," in order to avoid irreparable harm to her rights to health and life.

In the order of November 19, 2020, the Court reiterated that, while monitoring compliance, only exceptionally has it analyzed whether the requirements have been met to adopt provisional measures in conditions of particular gravity. After analyzing this request, the Court considered that the information and arguments submitted by the representatives and the State should be evaluated in the context of monitoring compliance with the judgment and not by analyzing the Convention's requirements for provisional measures. Therefore, the Court found it inappropriate to adopt the provisional measures requested in this case.

Here is the order of November 19, 2020 (Only in Spanish).

### 7. Case of the Massacres of El Mozote and neighboring places v. El Salvador

On October 25, 2012, the Court delivered judgment in the case of the Massacres of El Mozote and neighboring places v. El Salvador. In the context of monitoring compliance with the judgment, it adopted "provisional measures in favor of the victims in the case of the Massacres of El Mozote and neighboring places and ordered the State of El Salvador to ensure access to the military archives related to the facts of the case."

In the order of November 19, 2020, the Court reiterated that, only exceptionally in the context of monitoring compliance, had it analyzed whether the requirements have been met to adopt provisional measures in conditions of particular gravity that are related to the judgment. In this case, the Court considered that the information and

arguments submitted by the victims' representatives in the request for provisional measures and by the State should be evaluated in the context of monitoring compliance with the judgment and not by analyzing the Convention's requirements for provisional measures. Therefore, the Court found it inappropriate to adopt the provisional measures requested in this case.

Here is the order of November 19, 2020 (Only in Spanish).

## F. Lifting of provisional measures

### 1. Case of Durand and Ugarte v. Peru

On August 16, 2000, the Court delivered the judgment on merits in the case of Durante and Ugarte v. Peru. At the stage of monitoring compliance with judgment, the victims' representatives presented a request for provisional measures in order to "protect the employment stability" of the justices of the Constitutional Court of Peru, Manuel Miranda Canales, Marianella Ledesma Narváez, Carlos Ramos Núñez and Eloy Espinosa-Saldaña Barrera. The indicated that "an effort is being made to remove the said constitutional justices by a purely political measure addressed at preventing the execution of the judgment of the Court" in the case of Durand and Ugarte, and also "to intimidate all Peruvian judges in the independent performance of their functions." In an order of December 17, 2017, after verifying the analyzing the configuration, prima facie, of the elements of gravity, urgency and the possibility of irreparable harm, the Court required the State to suspend, immediately, the impeachment procedure underway in the Congress of the Republic against the justices of the Constitutional Court, Manuel Miranda, Marianella Ledesma, Carlos Ramos and Eloy Espinosa-Saldaña, until the full Inter-American Court could examine and rule on this request for provisional measures during its 121st regular session, which was held at its seat in San José, Costa Rica, from January 29 to February 9, 2018.

In an order of February 8, 2018, the Court decided to ratify the order of the President of the Inter-American Court of December 17, 2017, and to require the State of Peru, in order to guarantee the right of the victims in the case of Durand and Ugarte to obtain access to justice without any interference in judicial independence, to close the impeachment procedure underway before the Congress of the Republic against the justices, Manuel Miranda, Marianella Ledesma, Carlos Ramos and Eloy Espinosa-Saldaña. The Court also ordered the State to prepare a complete and detailed report on compliance with the provisional measure in place by April 15, 2018. Subsequently, in an order of May 30, 2018, the Court declared inadmissible the request presented by the State on April 12, 2018, to "reconsider" the order on provisional measures of February 8, 2018, or "else, specify the temporal limit that the Court finds appropriate to accord to the provisional measure."

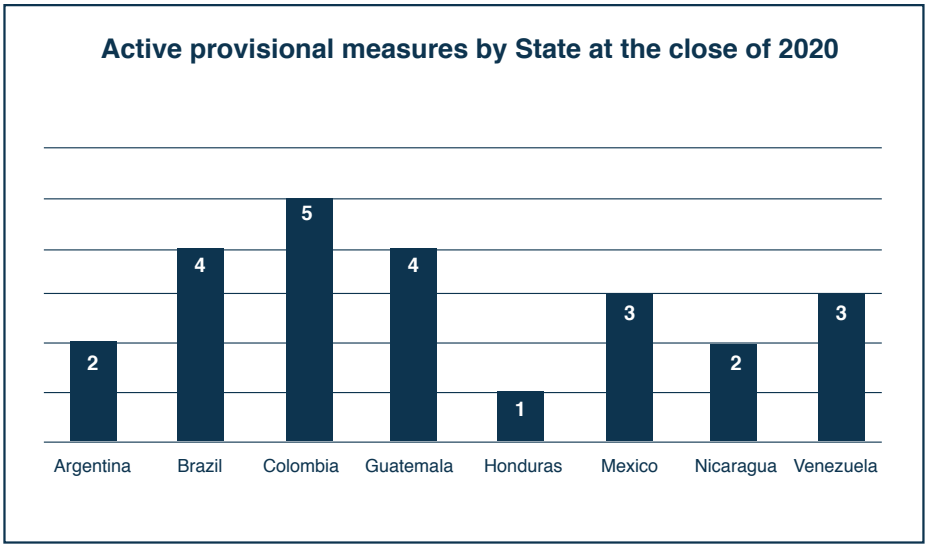
In an order of June 1, 2020, the Court emphasized the significant effect of the order on provisional measures issued in February 2018, because the Congress of the Republic did not continue the impeachment procedure against the said justices of the Constitutional Court due to decisions issued in 2016 and 2017 that had an impact on the criminal proceedings being processed for the events that occurred in the "El Frontón" Prison that prejudiced the victims in the case, as well as on the possibility of initiating new proceedings against others who were possibly responsible. The Court also noted that, even though, according to information provided by the State and the representatives, the justices will continue exercising their functions until their replacements have been appointed, the period established by law for their mandate had terminated while the impeachment procedure was in suspense. Therefore, the Court found it appropriate to order the lifting of the provisional measures ordered in this case, because the preexisting conditions of extreme gravity, urgency and the possibility of irreparable harm that justified the order of February 2018 had ceased.

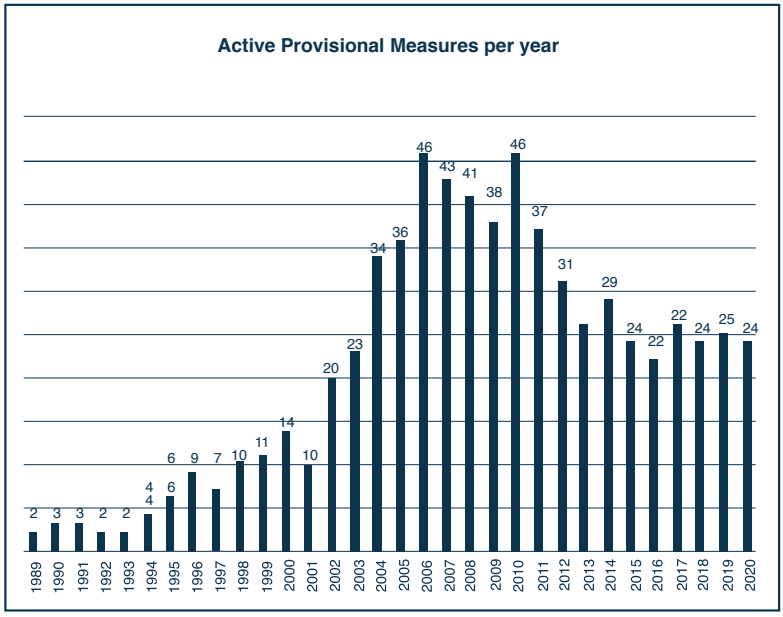
Here is the order of the President of December 17, 2017 and the orders of the Court of February 8, 2018, May 30, 2018, and June 1, 2020. (Only in Spanish).

## G. Current status of provisional measures

Currently, the Court is monitoring the following **24** provisional measures. The provisional measures under the supervision of the Court are the following:

| Current status of Provisional Measures | | |
|---|---|---|
| **Number** | **XIIIXIII. Name of case or matter** | **State** |
| 1 | Milagros Sala | Argentina |
| 2 | Torres Millacura | Argentina |
| 3 | Socio-educational Internment Unit | Brazil |
| 4 | Curado Prison Complex | Brazil |
| 5 | Pedrinhas Prison Complex | Brazil |
| 6 | Plácido de Sá Carvalho Institute | Brazil |
| 7 | 19 Traders | Colombia |
| 8 | Peace Community of San José de Apartadó | Colombia |
| 9 | Álvarez et al. | Colombia |
| 10 | Danilo Rueda | Colombia |
| 11 | Mery Naranjo *et al.* | Colombia |
| 12 | Members of the village of Chichupac and neighboring communities of the municipality of Rabinal; Molina Theissen et al., and 12 Guatemalan cases v. Guatemala | Guatemala |
| 13 | Bámaca Velásquez | Guatemala |
| 14 | Forensic Anthropology Foundation | Guatemala |
| 15 | Mack Chang | Guatemala |
| 16 | Kawas Fernández | Honduras |
| 17 | Castro Rodríguez | Mexico |
| 18 | Fernández Ortega *et al.* | Mexico |
| 19 | Members of the Choréachi Indigenous Community | Mexico |
| 20 | Members of the Nicaraguan Human Rights Center and of the Permanent Human Rights Commission (CENIDH-CPDH) | Nicaragua |
| 21 | Matter of the Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region | Nicaragua |
| 22 | Certain Venezuelan Prisons Venezuela | Venezuela |
| 23 | Barrios Family | Venezuela |
| 24 | Uzcátegui *et al.* | Venezuela |


Active provisional measures by State at the close of 2020
2
4
5
4
1
3
2
3
Argentina
Brazil
Colombia
Guatemala
Honduras
Mexico
Nicaragua
Venezuela


Active Provisional Measures per year
2 3 3 2 2 4 6 6 9 7 10 11 14 10 20 23 34 36 46 43 41 38 46 37 31 29 24 22 24 25 24
1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020

# CURRENT STATUS OF PROVISIONAL MEASURES


**1 Argentina**
Milagro Sala
Torres Millacura *et. al.*

**2 Brazil**
Socio-educational Internment Unit
Curado Prison
Pedrinhas Prison
Plácido de Sá Carvalho Institute

**3 Colombia**
19 Traders
Peace Community of San José Apartado
Álvarez *et. al.*
Danilo Rueda
Mery Naranjo *et. al.*

**4 Guatemala**
Members of the village of Chichupac and neighboring communities of the municipality of Rabinal, Caso Molina Theissen and another 12 Guatemalan Cases
Bámaca Velásquez
Forensic Anthropology Foundation
Mack Chang

**5 Honduras**
Kawas Fernández

**6 Mexico**
Castro Rodríguez
Fernández Ortega *et. al.*
Members of the Choréachi Indigenous Community

**7 Nicaragua**
Members of the Nicaraguan Human Rights Center and the Permanent Human Rights Commission
Members of the Miskitu Indigenous People's Communities of the North Caribbean Coast Autonomous Region

**8 Venezuela**
Certain Venezuelan Prisons
Barrios Family
Uzcátegui *et. al.*

# Advisory Function

# VII. Advisory Function

During 2020, the Court issued one Advisory Opinion and is examining three requests.

## A. Adoption of an Advisory Opinion

### • The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26.

On November 9, 2020, the Court issued an advisory opinion on the denunciation of the American Convention on Human Rights and of the Charter of the Organization of American States and its effects on State obligations regarding human right. The request was presented by Colombia on May 6, 2019.

Initially, the Court determined that, as a general rule, the denunciation of an international treaty must be consistent with the terms and conditions established in the treaty's text. It noted that the denunciation of the American Convention represented a backward step in the level of inter-American protection of human rights and in the quest to universalize the Inter-American system. The Court noted that it was not possible to denounce the American Convention with immediate effect. Article 78(1) established a one-year transition period, during which the other States Parties to the Convention, within the framework of the OAS institutional mechanisms, could express their observations and objections, opportunely and as collective guarantors of the American Convention, in order to safeguard the effective protection of human rights and the democratic principle. In addition, it served to prevent the use of denunciation as a bad-faith attempt to evade international human rights commitments, reduce or curtail the protection of human rights, weaken access to the international jurisdictional mechanism, and deprive individuals of the complementary protection of the Inter-American system.

In this regard, the Court stressed the need to apply a stricter scrutiny to denunciations presented in situations that appeared to be particularly serious and could affect democratic stability and hemispheric peace and security, resulting in a generalized impairment of human rights. Such situations included: (1) disagreement with a decision adopted by the protection organ and motivated by on an evident intention to disregard the international commitments assumed under a treaty; (2) a situation of indefinite suspension of guarantees or one that violated the core of non-derogable rights; (3) a context of gross, massive or systematic human rights violations; (4) the progressive erosion of democratic institutions; (5) an evident, irregular or unconstitutional alteration or rupture of the democratic order, and/or (6) an armed conflict. In particular, the Court determined that, when an OAS Member State denounces the American Convention on Human Rights, this action had the following consequences on its international human rights obligations: (1) its obligations under the Convention remained unimpaired during the transition period until the denunciation came into effect; (2) definitive denunciation produced no retroactive effects; (3) the obligations arising from the ratification of other Inter-American human rights treaties remained in force; (4) the definitive denunciation of the American Convention did not invalidate the domestic efficacy of principles derived from Convention-based precepts interpreted as a standard for the prevention of human rights violations; (5) the obligations associated with the minimum threshold of protection through the Charter of the OAS and the American Declaration remained under the supervision of the Inter-American Commission, and (6) customary norms, those derived from general principles of international law, and those pertaining to ius cogens continued to be binding for the State based on general international law.

Second, the Court analyzed the effects of denunciation of, and withdrawal from, the OAS Charter on the international human rights obligations that arise from this instrument. The Court emphasized that a denunciation of the OAS Charter and withdrawal from the Organization would leave those persons subject to the denouncing State entirely unprotected by the regional international protection organs. The Court recalled that the Charter could not be denounced with immediate effect, and that the two-year transition period was of particular importance so that the other OAS Member States, opportunely and through the institutional channels could express any observations or objections they deemed pertinent when denunciations were made that did not withstand scrutiny in light of the democratic principle and that affected the inter-American public interest, in their capacity as collective guarantors of its effectiveness as regards the observance of human rights, and so that the collective guarantee was activated.

The Court determined that, when a Member State of the Organization of American States denounced the Charter, its international human rights obligations stood as follows: (1) the human rights obligations derived from the OAS Charter remained in force during the transition period and up until the denunciation came into force; (2) once the denunciation of the OAS Charter was in force it did not have retroactive effects; (3) the obligation to comply with the obligations derived from the decisions of the human rights protection organs of the inter-American system remained until fully complied with; (4) the obligation to comply with the inter-American human rights treaties ratified and not denounced in accordance with their own procedures remained in force; (5) customary norms, those derived from general principles of international law, and those pertaining to ius cogens continued to be binding for the State based on general international law, and also the obligation to comply with the obligations arising from the Charter of the United Nations remained in effect. The Court referred to the concept of the collective guarantee and indicated that this was of direct interest to each OAS Member State, and to all the States as a whole, and was activated through the Organization's political organs. It mandated the implementation of various institutional and peacemaking mechanisms that allowed a possible denunciation of the American Convention and/or the OAS Charter to be dealt with as early and collectively as possible, in a situation in which democratic stability, peace and security could be harmed, leading to human rights violations.

The text of the Advisory Opinion is available here (Only in Spanish).

## B. Advisory opinions being processed

### • Scope of State obligations under the inter-American system with regard to the guarantee of trade union freedom, its relationship to other rights, and its application from a gender perspective.

On July 31, 2019, pursuant to Article 64(1) of the American Convention on Human Rights, the Inter-American Commission on Human Rights submitted a request for an advisory opinion to the Inter-American Court of Human Rights for the Court to interpret the "Scope of State obligations under the inter-American system with regard to the guarantee of trade union freedom, its relationship to other rights, and its application from a gender perspective."

The complete text of the request is available here (Only in Spanish).

Among other aspects, the request asked the Court to clarify the meaning and scope of the obligations in relation to guarantees in the procedures for the establishment of trade unions and in their election and internal governance procedures; also how the relationship between trade union freedom, collective bargaining and freedom of association is expressed, and also between trade union freedom, freedom of expression, the right to strike and the right of assembly. In addition, the request refers to determination of the scope of the obligations regarding specific guarantees to ensure trade union freedom in the presence of gender-based discrimination or violence in the workplace and to ensure the effective participation of women as trade union members and leaders in compliance with the principle of equality and non-discrimination.

Pursuant to Article 73(3) of its Rules of Procedure, the Inter-American Court invited all those interested to present their written opinion on the points submitted to consultation. The President of the Court established January 15, 2020, as

the deadline for receiving such observations and this was extended to April 13, 2020. 61 briefs were received with observations from States, international organizations, non-governmental organizations, academic institutions, trade unions, and members of civil society.

The briefs can be consulted here (Only in Spanish).

A virtual public hearing was held on July 27, 28 and 29, 2020, with the participation of 38 delegations.

The three sessions of the public hearing can be consulted here here.

## • The mechanism of indefinite presidential re-election in the context of the inter-American system of human rights

On October 21, 2019, the State of Colombia presented a request for an advisory opinion to the Inter-American Court of Human Rights for the Court to interpret "the mechanism of indefinite presidential re-election in the context of the inter-American system of human rights."

The complete text of the request is available here.

The reasons for the request are to determine:

a. Whether indefinite presidential re-election is a human rights protected by the American Convention;

b. The capacity of States to limit or prohibit indefinite presidential re-election and, in particular, if this unlawfully restricts the rights of the candidates or the voters;

c. The effects arising from allowing a ruler to remain in power by indefinite presidential re-election on the human rights of the persons subject to the Jurisdiction of the Member States of the Organization of American States and, in particular, on their political rights.

Pursuant to Article 73(3) of its Rules of Procedure, the Inter-American Court invited all those interested to present their written opinion on the points submitted to consultation. The President of the Court established May 18, 2020, as the deadline for receiving such observations. By Decisions 1/20 and 2/20 of March 17 and April 16, respectively, the Court decided to suspend all deadlines from March 17 to May 20, 2020, because many countries in the region were affected by COVID-19, classified by the World Health Organization as a "public health emergency of international concern." Consequently, the new deadline was set at July 24, 2020. 63 briefs were received with observations from States, international organizations, non-governmental organizations, academic institutions, trade unions, and members of civil society.

The briefs can be consulted here.

A virtual public hearing was held on September 28, 29 and 30, 2020, in which 54 delegations from different countries took part.

The three sessions of the public hearing can be consulted here.

## • Differentiated approaches concerning persons deprived of liberty

On November 25, 2019, the Inter-American Commission on Human Rights presented a request for an advisory opinion to the Inter-American Court of Human Rights for the Court to interpret the "differentiated approaches concerning persons deprived of liberty."

The complete text of the request is available here.

Pursuant to Article 73(3) of its Rules of Procedure, the Inter-American Court invited all those interested to present their

written opinion on the points submitted to consultation. The President of the Court established November 5, 2020, as the deadline for receiving such observations and this was extended until January 15, 2021.

During 2021, as part of the participative consultation procedure in the processing of an advisory opinion, as well as pursuant to Article 73(3) of the Court's Rules of Procedure, the President called those interested to a public hearing and the observations received will be published here.

# Developments in the Court's Case Law

# VIII. Developments in the Court's Case Law

This section highlights the aspects on which the Inter-American Court has developed new standards during 2020, as well as relevant criteria from the case law already established by the Court. These case law standards are very important for national authorities to be able to apply and adequate control of conventionality within their respective spheres of competence.

In this regard, the Court recalls its awareness 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. 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 jurisprudential standards developed by the Inter-American Court, ultimate interpreter of the American Convention.

This section is divided into the substantive rights established in the American Convention on Human Rights (ACHR) that incorporate these standards and that develop their scope and content. In addition, subtitles have been included that underscore the topics, and the content includes references to specific judgments from which the case law was extracted.

## A. Rights to life (Article 4 of the ACHR) and to personal integrity (Article 5 of the ACHR)

### • Right of children to a life free of sexual violence in the educational sphere

In the case of *Guzmán Albarracín v. Ecuador*, the Court examined a series of violations of the human rights of a girl child, who was a victim of sexual violence in the setting of an educational establishment. In this regard, the Court considered that "the rights to personal integrity and privacy, recognized in Articles 5 and 11 of the American Convention, involve freedoms, including sexual freedom and the control of one's own body, which can be exercised by adolescents to the extent that they have developed the capacity and maturity to do so"[92]. The Court clarified that the concept of "violence" relevant for determining State responsibility was not limited to physical violence, but included "any gender-based action or conduct that caused death, harm or physical, sexual or psychological suffering to a woman, in both the public and the private sphere"[93].

The Court considered that, in light of the Convention of Belém do Pará and the Convention on the Rights of the Child, acts of violence against women or girl children should be understood to include not only as acts of a sexual nature carried out using physical violence, but also other acts of that nature that, committed by other means, are equally harmful to the rights of women or girl children, or cause them harm or suffering. The Court indicated that sexual violence against women can be of different degrees according to the circumstances of the case and other diverse factors, including the characteristics of the acts committed, their repetition or continuation, and the pre-existing personal relationship between the woman and her aggressor, or her subordination to him based on a relationship of authority. According to the case, the victim's personal condition, such as being a child, may also be relevant. This is

92 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 109.*
93 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 110.*

without prejudice to the progressive autonomy of children and adolescents in the exercise if their rights – which does not deprive them of their right to measures of protection.

Consequently, States must "take the necessary measures to prevent and prohibit all forms of violence and abuse, including sexual abuse, […] in schools by teaching staff," who, owing to this condition, enjoy a situation of authority and trust in relation to students and even to their families. Moreover, it is necessary to bear in mind the particular vulnerability of girl children and adolescents, considering that they are "frequently exposed to sexual abuse by […] older men." In this regard, the Committee on the Rights of the Child has indicated that States have the "strict obligation" to adopt all appropriate measures to deal with violence against children. This obligation "refers to the broad range of measures cutting across all sectors of Government, which must be used and be effective in order to prevent and respond to all forms of violence," even including the application of effective sanctions"[94].

The foregoing reveals that the obligation to prevent, punish and eradicate violence against women and to adopt measures of protection for children, as well as the right to education, entails the obligation to protect girl children and adolescents from sexual violence in an educational setting. Also, of course, not to commit such violence in this setting. In this regard, it should be recalled that adolescents, and girl children in particular, are more prone to suffer acts of violence, coercion and discrimination. States must establish actions to check on or monitor the problem of sexual violence in educational institutions and develop policies to prevent it. Moreover, simple, accessible and safe mechanisms should exist so that such acts can be reported, investigated and punished[95].

The Court determined that, in this case, the relationship of a sexual nature that existed between a child and the Assistant Principal of her high school was characterized by submission to repeated and continuing acts of sexual violence by the abuse of a position of authority and trust by someone – the Assistant Principal – who had a duty of care within the school setting, in the context of the child's vulnerability. In addition, this situation of vulnerability was increased by an absence of effective actions to avoid sexual violence in the educational setting and of institutional tolerance[96].

This vulnerability of an adolescent female can be "increased by […] an absence of effective actions to avoid sexual violence in the educational setting, and of institutional tolerance," and also by the absence of sexual and reproductive education.[97] The right to sexual and reproductive education is part of the right to education and "entails a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate and age appropriate." A State obligation concerning the right to sexual and reproductive health is to provide "comprehensive education and information," taking into account "the evolving capacities of children and adolescents." This education should be appropriate to ensure that children have an adequate understanding of the implications of sexual and affective relationships, particularly as regards consent to such relations and the exercise of freedom with regard to their sexual and reproductive rights."[98] In this specific case, the absence of sexual and reproductive education prevented Paola Guzmán Albarracín from understanding the sexual violence involved in the acts she endured.

The Court reiterated that, based on the obligation of non-discrimination, States must take positive measures to rectify or change any situations that exist in their societies which discriminate against a specific group of individuals. Therefore, they must take measures that promote the empowerment of girls and reject harmful gender-based patriarchal norms and stereotypes. This obligation relates to Articles 19 of the American Convention and 7(c) of the Convention of Belém do Pará. Nevertheless, in this case, prior to 2002 the State had not adopted policies that had a real impact on the educational sphere and that were designed to prevent or reverse situation of gender-based violence against girls in the context of education. Consequently, the acts of harassment and sexual abuse committed against Paola not only constituted acts of violence and discrimination in which different factors of vulnerability and risk of discrimination, such as her age and condition as a female, coalesced intersectionally; but those acts of violence and

94 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 119.*
95 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 120.*
96 Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 127.
97 Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 140.
98 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 139.*

discrimination also took place in a structural situation in which, even though sexual violence in the educational setting was a persistent and well-known problem, the State had not taken measures to rectify it.[99]

Sexual violence against girls not only reveals prohibited gender-based discrimination, but may also be discriminatory due to age. Children can be affected disproportionately and in a particularly serious manner by acts of discrimination and gender-based violence[100].

## • Right to a decent life and sexual violence against children

In the case *Guzmán Albarracín v. Ecuador* the Court considered that the effects of violence against children can be extremely serious. Violence against children has numerous consequences, including "psychological and emotional consequences (such as feelings of rejection and abandonment, affective disorders, trauma, fears, anxiety, insecurity and destruction of self-esteem)," that may even lead to suicide or attempted suicide. The obligation to protect children against violence encompasses self-harm and actual suicide."[101]

## • Children – State responsibility and special position of guarantor in the case of minors doing military service

In the case of *Noguera et al. v. Paraguay*, the Court considered, with regard to persons in the State's custody, who include members of the armed forces on full-time active service, that the State must ensure their rights to life and to personal integrity because it has a special position of guarantor with regard to these persons. Regarding such persons in a special situation of subordination in the military sphere, the Court recalled that the State has the obligation to: (i) safeguard the integrity and well-being of soldiers on active service; (ii) ensure that the manner and method of training do not exceed the inevitable level of suffering inherent in this situation, and (iii) provide a satisfactory and convincing explanation concerning the violations of integrity and life of those who are in a special situation of subordination in the military sphere, on either voluntary or mandatory military service, or those who have incorporated the armed forces as cadets or with a rank within the military hierarchy. The Court indicated that, consequently, the State could be considered responsible for the violations of the rights to personal integrity and life suffered by anyone who has been under the authority and control of state officials, such as the staff of military schools and trainers[102].

## • Persons in the State's custody in military installations and health care

In the case of *Noguera et al. v. Paraguay*, the Court reiterated that, with regard to persons in the State's custody in military installations, the rights to life and to personal integrity are directly and immediately linked to health care, and the lack of adequate medical treatment can result in the violation of Article 5(1) of the Convention. The Court considered that one of the safety measures that must be taken during the armed forces training procedures is to have appropriate and good quality medical treatment available during military training sessions, either inside or outside the barracks, including the pertinent specialized emergency medical care[103].

## • Children in the system of justice: specific State obligations and duty of guarantee

In the case of Mota Abarullo v. Venezuela, the Court indicated that, since the case referred to youths who entered a juvenile detention center when they were under 18 years of age and who died owing to a fire in that State facility when they had attained their majority, Articles 5(5) and 19 of the American Convention should be understood in relation to the deprivation of an individual's liberty in order to establish their meaning and content, taking into account, among other instruments, the Convention on the Rights of the Child, which the Court has considered is included among "a very comprehensive international corpus iuris for the protection of children and adolescents.''[104]

99 Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 140.
100 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 141.*
101 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 156.*
102 *Case of Noguera et al. v. Paraguay. Merits, reparations and costs. Judgment of March 9, 2020. Series C No. 401, para. 67.*
103 *Case of Noguera et al. v. Paraguay. Merits, reparations and costs. Judgment of March 9, 2020. Series C No. 401, para. 69.*
104 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 79.*

According to the standards established by that Convention, in particular its Articles 37 and 40, as the Court has indicated, unlawful conducts attributed to children should be dealt with in a "differentiated and specific way"; in other words, under a special system, different from the one applicable to adults. Thus, according to paragraph (b) of the said Article 37, the deprivation of liberty of a child "shall only be used as a measures of last resort." Also, it should be implemented in a way that permits achieving the reintegration purpose of the measure, which includes an education that prepares the child for their return to society.[105]

The foregoing reveals that, since the special system for children is important, it should be implemented in a way that allows this objective to be achieved. In this regard, the Court has indicated that, "pursuant to the principle of specialization, the establishment of a specialized system of justice is required at all stages of the proceedings and during the execution of the measures or sanctions that, eventually, are applied to children under 18 years of age who have committed offenses and who, under domestic laws, are found guilty." The best interests of the child must be taken into account as the principal consideration, as well as the need "to promote his/her reintegration."[106]

The rule of separating children from adults in detention centers or prison should be applied and understood in accordance with the above. Thus, the Committee on the Rights of the Child has recognized that: "this rule does not mean that a child placed in a facility for children has to be moved to a facility for adults immediately after he/she turns 18. Continuation of his/her stay in the facility for children should be possible if that is in his/her best interest and not contrary to the best interests of the younger children in the facility."[107]

In the specific case of Mota Abarullo v. Venezuela, the five deceased youths initially came into contact with the justice system and were deprived of liberty when they were children. Therefore, the Court considered that the State had obligations relating to the rights of the child pursuant to Article 19 of the American Convention. To achieve the socio-educational objectives of measures taken in the case of children who have violated the penal law, even when these involve deprivation of liberty, States should extend the special system to adolescents who reach the age of 18 while they are complying with such measures. Consequently, the mere fact of turning 18 should not remove young people subject to deprivation of liberty in facilities for adolescents from the special protection that the State should provide to them."[108]

The Court determined that, owing to the special regime for minors established in Article 5(5) of the American Convention and Articles 37(c), 40(1) and 40(3) of the Convention on the Rights of the Child, the execution of the sentence imposed on a child should be regulated based on his/her personal status on the date the wrongful act was committed. Therefore, even if he/she attains the majority during execution of sentence, this special regime applies with regard to determination of the measures and punishments and imposes differentiated conditions of execution throughout its implementation.[109]

## • General considerations on State obligations in relation to the life and personal integrity of adolescent deprived of their liberty

The Court recalled that anyone deprived of their liberty "has the right to live in detention conditions compatible with his/her personal dignity and the State must ensure the rights to life and personal integrity." The restriction of these rights "not only has no justification in the context of the deprivation of liberty, but is also prohibited by international law." The Court has also indicated that,

> […] in the case of persons deprived of liberty, the State is in a special position of guarantor, because the prison authorities exercise strong control or authority over those in their custody, especially in the case of children. In this way, a special relationship and interaction of subordination develops between the person deprived of

105 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 80.*
106 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 81.*
107 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 82.*
108 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 85.*
109 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 86.*

liberty and the State, characterized by the particular intensity with which the State is able to regulate his/her rights and obligations and due to the circumstances inherent in confinement, where prisoners are prevented from meeting for themselves a series of basic necessities that are essential to lead a decent life[110].

Based on its position as guarantor, the State must ensure that those deprived of liberty have "minimum conditions compatible with their dignity," which is necessary "to protect and to ensure" their life and integrity. The Court has already pointed out that it "has incorporated into its case law the principal standards on prison conditions and the duty of prevention that the State must guarantee for persons deprived of liberty[111].

This position of guarantor takes special forms in the case of children. When children are deprived of their liberty, the State must assume its special position of guarantor with greater care and responsibility, and must take special measures relating to the principle of the best interest of the child. The Court has already taken into account that Articles 6 and 27 of the Convention on the Rights of the Child include in the right to life, the State's obligation to "ensure to the maximum extent possible the survival and development of the child." The protection of a child's life "requires the State to pay particular attention to his/her living conditions while deprived of liberty, because that right has not extinguished and is not restricted by his/her detention or confinement." This calls for States to take efficient measures to avoid violence, including riots or similar acts, and also emergency situations[112].

The Court reiterated that, in itself, prison overcrowding constituted a violation of personal integrity and impeded the performance of essential functions in detention centers[113].

Juvenile detention centers should be safe places, which means that they must ensure the protection of those interned in them against dangerous situations and, if they are closed facilities, they must be designed so that the risk of fire is reduced to a minimum and a safe evacuation of the cells and the protection of the inmates is ensured. Devices that can be used include effective fire detection and extinction systems, alarms, and protocols for action in case of emergencies[114].

In this regard, States should not provide prisoners or inmates with mattresses or other similar items that are not fireproof, or allow them to have such items in their cells, blocks or closed accommodation spaces. Furthermore, guards should have keys or devices immediately available and in good order that permit the rapid opening of cells, blocks or closed spaces. In addition, fire extinguishers and other firefighting devices must be kept in perfect condition[115].

The Court also determined that the absence of educational programs in a juvenile detention center, and detention conditions that lead to a deterioration in physical, mental and moral integrity may be contrary to the essential purpose of the punishment and constitute a violation of Article 5(6) of the Convention. Therefore, when anyone under 18 years of age is sentenced to imprisonment, they should receive education, treatment and care with a view to their release, social reintegration and ability to play a constructive role in society[116].

## • State responsibility for the violation of the rights to life and personal integrity owing to an explosion in a privately-owned factory

In the case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil, the Court determined that the State was internationally responsible for the violation of the rights to life and personal integrity of women and children who worked in a privately-owned fireworks factory owing to an explosion in that factory. This is because the manufacture of fireworks is a hazardous activity and the State was obliged to regulate, supervise and oversee hazardous activities that entailed significant risks to the life and integrity of those persons subject to its Jurisdiction, as

110 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 88.*
111 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 89.*
112 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 91.*
113 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 94.*
114 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 98.*
115 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 99.*
116 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 104.*

a measure to preserve and protect those rights[117].

In this specific case, the State had classified the manufacture of fireworks as a hazardous activity and regulated the conditions in which it should be carried out. Consequently, it had a clear and enforceable obligation to oversee establishments that produced fireworks, and that obligation included the handling and storage of dangerous substances. The State failed to comply with its obligation to oversee the factory and allowed procedures required for the manufacture of fireworks to be carried out ignoring the minimum standards required by domestic law for this type of activity, Therefore, the omissive conduct of the State contributed to the explosion that violated the right to life of 60 individuals and the right to personal integrity of the six who survived[118].

## • Use of force by State agents

In the *case of Roche Azaña v. Nicaragua*, the Court reiterated that the use of force by State law enforcement agents should be exceptional in nature and should be planned and limited proportionately by the authorities. The Court has considered that use of force or of instruments of coercion may only be employed when all other methods of control have been utilized and failed. In cases in which the use of force is essential, this should be implemented respecting the principles of legality, legitimate purpose, absolute necessity, and proportionality:

**i. Legality:** The exceptional use of force must be established by law and a regulatory framework for its use must exist.

**ii. Legitimate objective:** the use of force must be addressed at achieving a legitimate objective.

**iii. Absolute necessity:** it must be verified whether other means are available to protect the life and safety of the person or situation that it is sought to protect, in keeping with the circumstances of the case. The use of lethal force and firearms against persons by law enforcement officials should be even more exceptional, and should be prohibited as a general rule. Its exceptional use must be interpreted restrictively so that is minimized in any circumstances, and is only the "absolutely necessary" in relation to the force or threat it is intended to repel.

**iv. Proportionality:** the level of force used must be in keeping with the level of resistance offered, which implies a balance between the situation faced by the official and the response, taking into consideration the potential damage that could be caused. Thus officials must apply the criteria of differentiated and progressive use of force, determining the degree of cooperation, resistance or violence of the subject against whom the intervention is intended and, on this basis, employ negotiating tactics, control, or use of force, as required. To determine the proportionality of the use of force, the gravity of the situation faced by the official must be evaluated. To this end, it is necessary to consider, among other factors: the level of intensity and danger of the threat; the conduct of the individual; the local environment, and the different means that the official has to deal with the specific situation[119].

The Court reiterated that States must establish an appropriate legal framework that dissuades any threat to the right to life. Consequently, domestic laws should establish standards that are sufficiently clear regarding the use of lethal force and firearms by State agents[120].

In the case of *Olivares Muñoz et al. v. Venezuela*, the Court reiterated the importance of the suitability and due training of prison staff, with special emphasis on prison guards as a measure to ensure a decent treatment of inmates, and

117 *Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, para. 149.*
118 *Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, para. 137.*
119 *Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403, para. 53.*
120 *Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403, para. 55.*

to prevent the risk of acts of torture and of any cruel, inhuman or degrading treatment[121]. The Court also repeated that the functions of security, custody and supervision of those deprived of liberty should be carried out, preferably, by civilians specifically trained to work in prisons, rather than police or military units. However, when, in exceptional cases, the latter's intervention is required, their participation must be characterized by being:

1) Extraordinary, so that any intervention is justified and exceptional, temporary and restricted to the strictly necessary in the circumstances of the case;

2) Subordinated and complementary to the work of the prison authorities;

3) Regulated by legal mechanisms and protocols on the use of force, by the principles of exceptionality, proportionality and absolute necessity, and based on the corresponding training, and;

4) Monitored by competent, independent and professional civilian organisations[122].

## B. Right to Personal Integrity (Article 5 of the ACHR)

### • LGBTI people – Violence based on prejudice

In the *case of Rojas Marín v. Peru*, the Court reiterated that, in several cases, it had already recognized that the LGBTI community has historically been the victim of structural discrimination, stigmatization, and different forms of violence and violations of fundamental rights. In this regard, the Court has established that the sexual orientation, and gender identity or gender expression of a person are categories protected by the Convention. Consequently, the State cannot take action against a person based on their sexual orientation, their gender identity and/or their gender expression.

Numerous forms of discrimination against LGBTI people are evident in the public and private sphere. In the Court's opinion one of the most extreme forms of discrimination against the LGBTI community occurs in violent situations. The Court reiterated its consideration in Advisory Opinion OC-24/17 that: "[t]he mechanisms for the protection of human rights of the United Nations and the inter-American system have recorded violent acts against LGBTI persons in many regions based on prejudices. The UNHCHR has noted that 'such violence may be physical (including murder, beatings, kidnapping and sexual assault) or psychological (including threats, coercion and the arbitrary deprivation of liberty, including forced psychiatric incarceration)"[123].

Violence against LGBTI people is based on prejudices; that is, perceptions that are usually negative of individuals or situations that are strange or different. In the case of LGBTI people this refers to prejudices based on sexual orientation and gender expression or identity. This type of violence may be driven by "the desire to punish those seen as defying gender norms." In this regard, the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation or gender identity has indicated that: "At the root of the acts of violence and discrimination [… based on sexual orientation or gender identity] lies the intent to punish based on preconceived notions of what the victim's sexual orientation or gender identity should be, with a binary understanding of what constitutes a male and a female or the masculine and the feminine, or with stereotypes of gender sexuality."[124]

Violence against LGBTI people has a symbolic purpose; the victim is chosen in order to communicate a message of exclusion or subordination. On this point, the Court has indicated that the use of violence for discriminatory reasons has the purpose or effect of preventing or annulling the recognition, enjoyment or exercise of the fundamental human rights and freedoms of the person who is the object of the discrimination, regardless of whether that person identifies

121 Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 102.
122 *Case of Mota Abarullo et al. v. Venezuela. Merits, reparations and costs. Judgment of November 18, 2020. Series C No. 417, para. 107.*
123 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 91.*
124 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 92.*

themself with a determined category. This violence, fed by hate speech, can result in hate crimes[125].

The Court has also noted that, at times, it may be difficult to distinguish between discrimination due to sexual orientation and discrimination due to gender expression. Discrimination due to sexual orientation may be based on the real or perceived sexual orientation, so that it includes cases in which a person is discriminated against owing to the perception that others have of their sexual orientation. This perception may be influenced, for example, by clothing, hairstyle, mannerisms or behavior that do not correspond to traditional or stereotypical gender standards or that constitute a non-normative gender expression.

## • Discrimination-based rape of an LGBTI person as torture and a hate crime

In the *case of Rojas Marín v. Peru*, the Court reiterated that, in cases involving sexual violence, violations of personal integrity entail a violation of a person's privacy, protected by Article 11 of the Convention, which encompasses their sexual life or sexuality. It has also considered that rape is any act of vaginal or anal penetration without the victim's consent using parts of the aggressor's body or objects, as well as oral penetration by the male organ[126].

Regarding evidence of a rape, the Court reiterates that this is a particular type of aggression that, in general, is characterized by occurring in the absence of people other than the victim and the aggressor or aggressors. Given the nature of this type of violence, the existence of graphic or documentary evidence cannot be expected and, therefore, the victim's statement constitutes fundamental evidence of the fact[127].

The Court reiterated that the failure to mention of some of the alleged ill-treatment in some of the statements does not mean that the facts are false or untrue because they refer to a traumatic event the impact of which could lead to a certain lack of precision when recalling them. Also, when analyzing the said statements, it must be taken into account that sexual aggression corresponds to a type of offense that, frequently, the victim does not report owing to the stigma that this report usually entails[128]. In addition, not all cases of sexual violence or rape cause physical injuries or diseases that can be verified by a medical examination[129].

The Court also reiterated that to classify rape as torture, it is necessary to examine the intentionality, the severity of the suffering, and the purpose of the act, taking into consideration the specific circumstances of each case[130]. In this specific case, the Court found that the intentionality and the severity of the suffering had been proved[131]. Regarding the purpose of the act, the Court considered that rape had a discriminatory purpose. In this regard, it took into account the expert opinions according to which to determine whether a case of torture has been motivated by prejudice against LGBTI people, the method and characteristics of the violence inspired by discrimination can be used as indicators; for example, anal rape or the use of other forms of sexual violence; discriminatory insults, comments or gestures by the perpetrators during the act or in its immediate context, referring to the sexual orientation or gender identity of the victim or the absence of other reasons[132].

Consequently, the Court considered that the anal rape and the comments relating to victim's sexual orientation

125 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 93.*
126 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 142.*
127 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 146.*
128 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 148.*
129 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 153.*
130 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 160.*
131 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 162.*
132 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 163.*

revealed a discriminatory purpose, so that it constituted an act of violence based on prejudice[133] and that the series of abuses and aggressions suffered by the victim, including the rape, constituted an act of torture by state agents[134].

Furthermore, the Court noted that the case could be considered a "hate crime" because it is clear that the aggression against the victim was based on her sexual orientation; in other words, this crime not only damaged the rights of Azul Rojas Marín, but was also a message to the whole LGBTI community, a threat to the freedom and dignity of this entire social group[135].

## C. Right to Personal Liberty (Article 7 of the ACHR)

### • LGBTI people – Arbitrary deprivation of liberty based on discrimination against LGBTI people

In the case of Azul Rojas Marín v. Peru, the Court took into consideration the opinion of the Working Group on Arbitrary Detention that deprivation of liberty is for discriminatory reasons "when it is apparent that persons have been deprived of their liberty specifically on the basis of their own or perceived distinguishing characteristics or because of their real or suspected membership of a distinct (and often minority) group." The Working Group considered that one of the factors to take into account to determine the existence of discriminatory grounds was whether "the authorities have made statements to, or conducted themselves towards, the detained person in a manner that indicates a discriminatory attitude."[136]

Based on the above criteria, in the specific case of Azul Rojas Marín v. Peru, the Court indicated that, in the absence of legal grounds for subjecting the presumed victim to an identity check and the existence of elements that point towards discriminatory treatment based on sexual orientation or non-normative gender expression, the Court must presume that the detention of Ms. Rojas Marín was carried out for discriminatory reasons[137]. Also, in this case, the Court considered that the violence use by the state agents against Ms. Rojas Marín included stereotypical insults and threats of rape. The Court concluded that since this was a detention for discriminatory reasons, it was evidently unreasonable and, therefore, arbitrary.[138]

### • Deprivation of liberty for discriminatory reasons related to racial profiling

In the case of Acosta Martinez v. Argentina, the Court reiterated that personal liberty and safety are guarantees against unlawful or arbitrary detention or imprisonment. Even though the State has the right and the obligation to ensure safety and maintain public order, its powers are not unlimited because, at all times, it has a duty to use procedures that are in keeping with the law and respect the fundamental rights of every individual subject to its Jurisdiction. The objective of ensuring safety and maintaining public order requires the State to legislate and to take measures of different types to prevent and regulate the conduct of its citizens, one of which is to ensure the presence of law enforcement personnel in public spaces. However, the Court observed that improper actions by such state agents in their interaction with those they should protect represents one of the main threats to the right to personal liberty, which, when it is violated, results in a risk that other rights will be violated, such as to personal integrity and, in some case, to life[139].

133 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 164.*
134 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 166.*
135 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 165.*
136 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 127.*
137 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 128.*
138 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 164.*
139 *Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410, para. 95.*

In this case, the Court stressed that the actions of the police were motivated more by racial profiling than by the suspicion that an unlawful act was being committed. Indeed, the only individuals who were apprehended on leaving the discotheque were Afrodescendants and, even though they had no criminal record and were not carrying weapons, they were arrested and taken to the police station. The general nature of the provisions of the police legislation allowed the police to justify their intervention, a posteriori, and create the appearance of its legality.[140]

The use of racial profiling may also be related to domestic laws or practice. Indeed, as the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has indicated, "official policies may facilitate discretional practices that allow law enforcement authorities to direct their actions selectively towards individuals or groups based on the color of their skin, their clothing, their facial hair or the language the speak."[141]

A deprivation of liberty is discriminatory when it is apparent that persons have been deprived of their liberty specifically on the basis of their own or perceived distinguishing characteristics or because of their real or suspected membership of a distinct (and often minority) group.[142]

- ## Stereotyping in detentions

In the *case of Fernández Prieto and Tumbeiro v. Argentina*, the Court referred to the biased categorization as suspicious of the attitude or appearance of a person based on the preconceived ideas of police officers about the presumed dangerousness of certain social groups and the elements that determine whether someone belongs to them. The Court recalled that stereotypes consist in preconceptions about the attributes, conducts, roles or characteristics of individuals who belong to an identified group. The use of stereotyped reasoning by law enforcement personnel may result in discriminatory – and therefore arbitrary – actions.

In the absence of objective elements, the characterization of a certain conduct or appearance as suspicious, or of a certain reaction or movement as nervous, responds to the personal convictions of the officials who intervene and to the practices of law enforcement agents that involve a level of arbitrariness that is incompatible with Article 7(3) of the American Convention. When, in addition, these convictions or personal opinions are based on prejudices with regard to the supposed characteristics or conducts of a determined category or group of persons or to their socio-economic status, this may result in a violation of Articles 1(1) and 24 of the Convention.

The use of such profiles supposes a presumption of guilt against anyone who fits them, rather than the case-by-case evaluation of the objective reasons that truly indicate that a person is involved in the perpetration of an offense. Accordingly, the Court has indicated that arrests carried out for discriminatory reasons are manifestly unreasonable and, therefore, arbitrary.

- ## Inadequate legislation and practices that violate the Convention in relation to discriminatory actions of the police actions

In the *case of Fernández Prieto and Tumbeiro v. Argentina*, the Court considered that regulations that determine the powers of police officials in relation to crime prevention and investigation must include specific and clear indications of parameters that avoid cars being intercepted or detentions for identification purposes being carried out arbitrarily. Consequently, provisions that include and enable conditions that permit a detention without a court order or flagrante delicto, in addition to meeting the requirements of legitimate purpose, appropriateness and proportionality, must establish the existence of objective factors so that it is not mere police intuition or subjective criteria, which cannot be verified, that are the reasons for a detention. This means that the purpose of the norms enabling this type of detention must be for the authorities to exercise their powers when faced with the existence of real, sufficient and concrete acts or information that, concurrently, would permit an objective observer to reasonably infer that the person detained was probably the perpetrator of a criminal offense or misdemeanor. This type of regulation should also observe the principle of equality and non-discrimination in order to avoid hostility towards certain social groups based on

140 *Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410, para. 97.*
141 *Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410, para. 98.*
142 *Case of Acosta Martínez et al. v. Argentina. Merits, reparations and costs. Judgment of August 31, 2020. Series C No. 410, para. 99.*

categories prohibited by the American Convention.[143]

The Court considered that the verification of objective elements before intercepting a vehicle or detaining someone for purposes of identification becomes particularly relevant in contexts such as that of Argentina, where the police have normalized the practice of detentions based on suspicion of criminality, justifying this action by crime prevention and where, in addition, the domestic courts have validated this type of practice.[144]

### • Control of conventionality in the creation and interpretation of laws on arrest without a court order

The Court recalled that Article 2 of the Convention establishes the general duty of the States Parties to adapt their domestic laws to its provisions in order to ensure the rights that it recognizes. This duty involves the adoption of two types of measures. On the one hand, the elimination of laws and practices of any kind that entail a violation of the guarantees established in the Convention; on the other, the enactment of laws and the implementation of practices leading to the effective observance of the said guarantees. It is precisely with regard to the adoption of these measures that the Court has recognized that all the authorities of a State Party to the Convention have the obligation to exercise a control of conventionality so that the application and interpretation of domestic law is consistent with the State's international human rights obligations.

Regarding control of conventionality, the Court has indicated that when a State is a party to an international treaty such as the American Convention all its organs, including its judges, are subject to that instrument and this obliges them 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. The judges and organs involved in the administration of justice at all its levels are obliged to exercise, ex officio, a "control of conventionality" between domestic norms and the American Convention, evidently within the framework of their respective terms of reference and the corresponding procedural regulations. In this task, the judges and organs involved in the administration of justice must take into account not only the treaty but also its interpretation by the Inter-American Court, ultimate interpreter of the American Convention, Therefore, when creating and interpreting the regulations that authorize the police to carry out detentions without a court order or in flagrante delicto, the domestic authorities, including the courts, are obliged to take into account the interpretation of the American Convention made by the Inter-American Court that such detentions must be carried out in compliance with the standards for personal liberty.

## D. Rights to judicial guarantees, judicial protection and equal protection of the law (articles 8(1), 25(1) and 24 of the ACHR)

### • Access to justice in cases of sexual violence against girls

In the specific *case of Guzmán Albarracín v. Ecuador*, the Court indicated that the authorities should have acted with strict diligence, considering that the incident involved a child victim of sexual violence, given the importance of speed to comply with the main objective of the judicial proceedings which was to investigate and punish the perpetrator of this violence, who was a public official; and also to contribute to ensuring that the family members could know the truth of what occurred and to end the denigrating preconceptions, the humiliation and the stigma.[145]

### • Due diligence in the investigation of acts of rape and torture against LGBTI people

In the case of Azul Rojas Marín *et al.* v. Peru, the Court indicated that the specific standards that it had developed in its case law for the investigation of sexual violence should be applied regardless of whether the victim of the sexual

143 *Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and reparations. Judgment of September 1, 2020. Series C No. 411, para. 90.*
144 *Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and reparations. Judgment of September 1, 2020. Series C No. 411, para. 96.*
145 *Case of Guzmán Albarracín et al. v. Ecuador. Merits, reparations and costs. Judgment of June 24, 2020. Series C No. 405, para. 190.*

violence was a woman or a man and that, therefore, were applicable to the case in which the victim of rape identified himself as a gay man at the time of the facts.[146]

The Court reiterated that, in a criminal investigation into sexual violence, it is necessary that: (i) the victim's statement is taken in a safe and comfortable environment that offers privacy and inspires confidence; (ii) the victim's statement is recorded to avoid or limit the need to repeat it; (iii) the victim is provided with medical, psychological and hygienic care, both on an emergency basis and continuously if required, under a care protocol aimed at reducing the consequences of the rape; (iv) a complete and detailed medical and psychological examination is performed immediately by appropriate trained personnel, if possible of the sex preferred by the victim, advising the victim that they may be accompanied by a person of confidence if they so wish; (v) the investigative measures are coordinated and documented and the evidence is handled diligently, taking sufficient samples, performing tests to determine the possible perpetrator of the act, securing other evidence such as the victim's clothing, investigating the scene of the incident immediately, and guaranteeing the proper chain of custody, and (vi) the victim is provided with access to free legal assistance at all stages of the proceedings.[147]

The Court pointed out that when violent acts, such as torture, are investigated, the State authorities have the obligation to take all reasonable measures to discover whether there are possible discriminatory motives. This obligation means that when there are specific indications or suspicions of violence based on discrimination, the State must do everything reasonable, according to the circumstances, to collect and secure the evidence, use all practical means to discover the truth, and issue fully reasoned, impartial and objective decisions, without omitting suspicious facts that could indicate violence based on discrimination. The authorities' failure to investigate possible discriminatory motives may, in itself, constitute a form of discrimination, contrary to the prohibition established in Article 1(1) of the Convention.[148]

The Court recalled that opening lines of investigation into the previous social or sexual behavior of victims in cases of gender-based violence is merely the expression of policies or attitudes based on gender stereotypes. There is no reason why this is not applicable in cases of sexual violence against LGBTI people, or those perceived as such. In this regard, the Court considers that questions regarding the presumed victim's sexual life are unnecessary as well as revictimizing.[149]

In addition, it should be noted that, during the forensic medical examination, during the interrogations, and in the decision of the Administrative Court, the expression "unnatural" was used to refer to anal penetration. The use of this term stigmatizes those who perform this type of sexual act, branding them as "abnormal" because they do not conform to heteronormative social rules.[150]

The Court considered that these types of inquiries and the terms used in the investigation constitute stereotyping. Even though these stereotypes were not explicitly used in the decisions relating to the dismissal of the criminal investigation, their use reveals that the complaints filed by the presumed victim were not being considered objectively.[151]

146 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 52.*
147 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 180.*
148 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 196.*
149 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 202.*
150 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 203.*
151 *Case of Azul Rojas Marín et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of March 12, 2020. Series C No. 402, para. 204.*

## • Specific guarantees to safeguard judicial independence and their applicability to prosecutors owing to the nature of their functions

In the cases of Martínez Esquivia v. Colombia and Casa Nina v. Peru, the Court concluded that the guarantee of tenure and irremovability of judges addressed at safeguarding their independence was applicable to prosecutors owing to the nature of their functions[152].

To reach this conclusion, the Court first reiterated that judges have specific guarantees owing to the necessary independence of the Judiciary, which has been understood to be "essential for the exercise of the judicial function." Accordingly, the Court has indicated that one of the main objectives of the separation of powers is the guarantee of judicial independence. The State must guarantee both the institutional aspect (that is in relation to the Judiciary as a system) of this autonomy and also its individual aspect (that is, in relation to the person of the specific judge). In any case, the protection seeks to avoid the judicial system, in general, and its members, in particular, being subjected to possible undue restrictions in the exercise of their functions by organs outside the Judiciary or even by those who exercise functions of review or appeal[153].

The Court has also indicated that the guarantees of an appropriate appointment procedure, irremovability, and against external pressure are based on the principle of judicial independence. Regarding the guarantee of stability and irremovability of judges, the Court has considered that it involves the following: (a) removal from the post must be exclusively for the permitted reasons, either by means of a procedure that complies with judicial guarantees or because the term of office has concluded; (b) judges can only be removed due to serious disciplinary offenses or incompetence, and (c) any procedure against a judge must be decided based on the established code of judicial conduct and by just proceedings that ensure objectivity and impartiality pursuant to the Constitution and the law[154].

As indicated, the Court considered that it was necessary to determine whether these guarantees were applicable to prosecutors owing to the nature of their functions. Regarding the specific function of prosecutors, on several occasions the Court has referred to the need for the State to guarantee an independent and objective investigation – in the case of human rights violations and with regard to offenses in general – and emphasized that the authorities in charge of the investigation must enjoy independence, de jure and de facto, which requires "not only institutional and hierarchical independence, but also real independence"[155].

In addition, the Court has indicated that the requirements of due process established in Article 8(1) of the Convention, as well as the criteria of independence and objectivity, also extend to the organs responsible for the investigation prior to the judicial proceedings, conducted to determine the existence of sufficient evidence to institute criminal proceedings. Therefore, unless the said requirements are met, the State will be unable to exercise its prosecutorial powers effectively and efficiently, and the courts will be unable to conduct the corresponding judicial proceedings[156].

Based on the foregoing, the Court considered that the guarantees of an appropriate appointment procedure, irremovability, and protection against external pressure should also protect the work of prosecutors. Otherwise, this would jeopardize the independence and objectivity that are required of their function in order to ensure that the investigations conducted and the claims made before the jurisdictional organs are addressed exclusively at achieving justice in the particular case in keeping with Article 8 of the Convention. Moreover, the Court has clarified that the absence of the guarantee of irremovability of prosecutors – since it makes them vulnerable to reprisals for the decisions they take – results in a violation of their independence that Article 8(1) of the Convention guarantees[157].

It should be pointed out that prosecutors carry out duties corresponding to agents of justice and, in that capacity, even though they are not judges, they must enjoy guarantees of job security, among others, as a fundamental condition for

152 Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, paras. 95 and 96, and Case of Casa Nina v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 24, 2020. Series C No. 419, para. 69.
153 *Case of Martínez Esquivia v. Colombia. Preliminary objections, Merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 84.*
154 *Case of Martínez Esquivia v. Colombia. Preliminary objections, Merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 85.*
155 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 86.*
156 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 87.*
157 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 88.*

their independence in the correct performance of their procedural functions.

The Court concluded that, in order to safeguard the independence and impartiality of prosecutors in the exercise of their functions, prosecutors must also be protected by the following guarantees: (i) guarantees of an adequate appointment process; (ii) fixed term in the position, and (iii) protection against external pressures[158].

In any case, it should be pointed out that the independence of prosecutors does not assume a specific model of institutional arrangement either at a constitutional or legal level, due to both the position recognized to the prosecutor, public prosecutor, or any other name used in each country's domestic legal system, and to the organization and internal relationships within the said institutions. This is in the understanding that, notwithstanding the foregoing, the independence recognized to prosecutors guarantees that they will not be subject to political pressures or improper obstruction of their actions, nor will they suffer retaliation for the decisions they objectively make, which precisely requires a guarantee of stability and a fixed term in the position. Therefore, this specific guarantee for prosecutors, in an equivalent application of the mechanisms of protection recognized to judges, results in the following: (i) that separation from the position must be exclusively for the permitted causes, either through a procedure that complies with judicial guarantees or because the mandate has expired; (ii) that prosecutors may only be removed for grave disciplinary offenses or incapacity, and (iii) all proceedings against prosecutors must be according to fair procedures that guarantee objectivity and impartiality according to the Constitution or law, given that removal of prosecutors without a cause promotes an objective doubt regarding the possibility that they are able to perform their duties without fear of reprisal[159].

- ## The guarantee of irremovability of provisional prosecutors

In the *case of Martínez Esquivia v. Colombia*, the Court considered that it was not competent to decide the best institutional framework for guaranteeing independence and objectivity of prosecutors. However, it observed that the States are bound to ensure that provisional prosecutors are independent and objective and, therefore, must grant them some sort of stability and permanence in office because a provisional appointment does not mean that they can be freely removable from office. The Court observed that the fact that appointments are provisional should in no way modify the safeguards instituted to guarantee that judges may discharge their duties properly and, ultimately, to benefit the parties to a case. In any case, such provisional appointments should not extend indefinitely in time, and should be subject to a resolutive condition, such as a predetermined time limit or the holding and completion of a public competitive selection process whereby a permanent replacement is appointed. Provisional appointments should be exceptional, rather than the rule[160].

This does not mean that people appointed through a public competitive selection process and those appointed provisionally have equal rights, since the latter are appointed for a limited period of time and subject to a resolutive condition. However, in the context of that appointment and while the said resolutive condition or a serious disciplinary offense has not been verified, the provisional prosecutor must be ensured the same guarantees as those with tenure, given that their functions are identical and require the same protection against external pressures[161].

In conclusion, the Court considered that the removal of a prosecutor from his position must be the result of legally defined causes, such as: (i) the occurrence of the resolutive condition to which the appointment was subject, such as the completion of a predefined time for holding and concluding a public competitive selection process based on which the permanent replacement for the provisional prosecutor is appointed, or (ii) serious disciplinary offenses or proven incompetence, resulting from a procedure that complies with due guarantees and ensures the objectivity and impartiality of the decision[162].

158 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 92.*
159 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 93.*
160 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 97.*
161 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 98.*
162 *Case of Martínez Esquivia v. Colombia. Preliminary objections, merits and reparations. Judgment of October 6, 2020. Series C No. 412, para. 99.*

## • Judicial guarantees applicable to disciplinary proceedings against judges

In the *case of Urrutia Laubreaux v. Chile*, the Court indicated that, as one of the minimum guarantees established in Article 8(2) of the Convention, the right to prior and detailed notification of the charges applies in both criminal matters and in the other matters indicated in Article 8(1) of the Convention, even though the information required in the other matters may be less and of another type. That said, in the case of disciplinary proceedings that may result in a sanction, the scope of this guarantee can be understood in different ways but, in any case, means that the person to be disciplined must be informed of the conducts of which he is accused that have violated the disciplinary regime[163].

In addition, the Court reiterated that the guarantee of impartiality is applicable in disciplinary proceedings conducted against judges. This guarantee requires that the judge who intervenes in a particular dispute must approach the facts of the case free of any subjective prejudice and also offer sufficient objective guarantees to exclude any doubt that the justiciable or the community may entertain as to his/her lack of impartiality. Therefore, this guarantee means that the members of the court should not have a direct interest, preconceived position, or preference for any of the parties, that they are not involved in the dispute and that they inspire the necessary confidence in the parties to the case, as well as in the citizens in a democratic society[164].

## • Judicial guarantees applicable to disciplinary proceedings against public officials

In the case of Petro Urrego v. Colombia, the Court reiterated that Article 8(2) of the Convention also establishes minimum guarantees that must be ensured by the States in accordance with due process of law. The Court has indicated that these minimum guarantees must be observed in administrative proceedings and in any other procedure that results in decisions that may affect the rights of the individual. In other words, the due process of law must be respected in any act or omission on the part of the State bodies in a proceeding, whether of a punitive administrative or judicial nature[165].

In particular, in the case of Maldonado Ordoñez v. Guatemala, the Court emphasized that "disciplinary law forms part of punitive law [...] insofar as it is composed of a series of rules that permit imposing sanctions on those who commit an act defined as a disciplinary offense"[166], it therefore "is close to the provisions of criminal law" and, owing to its "punitive nature," the procedural guarantees of criminal law "are applicable mutatis mutandis to disciplinary law"[167].

Based on the foregoing, and regarding the administrative dismissal of public officials, the Court has pointed out that, because of the procedure's punitive nature and its determination of rights, the procedural guarantees provided for in Article 8 of the American Convention are part of the minimum guarantees that must be respected in order to reach a decision that is not arbitrary and observes due process. In the case of Petro Urrego v. Colombia, the Court indicated that the guarantees of impartiality of the disciplinary authority, the presumption of innocence and the right of defense were applicable to the disciplinary proceedings conducted against Mr. Petro[168].

The Court noted that the concentration of the investigative and punitive powers in the same entity, a common feature of administrative disciplinary processes, is not per se incompatible with Article 8(1) of the Convention, provided that those powers are vested in different bodies or units of the entity concerned, and that their composition varies so that the officials who decide on the merits of the accusations made are different from those who have brought the disciplinary charges and that they are not subordinate to the latter[169].

163 Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 113.
164 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 118.*
165 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 120.*
166 *Case of Maldonado Ordóñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 76.*
167 *Case of Maldonado Ordóñez v. Guatemala. Preliminary objection, merits, reparations and costs. Judgment of May 3, 2016. Series C No. 311, para. 77.*
168 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 121.*
169 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 129.*

In this specific case, the Court indicated that Mr. Petro was dismissed as mayor and disqualified from holding public office through an administrative disciplinary procedure before the Disciplinary Chamber of the Attorney General's Office. Given that the sanction of dismissal and disqualification can only be imposed by a competent judge after conviction in criminal proceedings, the Court finds that the principle of Jurisdiction was breached. This is so because the sanction against Mr. Petro was ordered by an administrative authority which, pursuant to the provisions of Article 23(2) of the Convention and the case law of this Court lacks Jurisdiction in this regard[170].

## • The scope of the principle of legality in disciplinary matters

In the *case of Urrutia Laubreaux v. Chile* la Corte reiterated that the principle of legality is also in force in relation to disciplinary matters; however, its scope depends to a considerable extent on the matter regulated. The precision of a punitive rule of a disciplinary nature may be different from that required by the principle of legality in criminal matters owing to the nature of the disputes that each one is intended to settle[171].

In addition, in the case of disciplinary sanctions imposed on judges, compliance with the principle of legality is even more important because it constitutes a guarantee against external pressures on judges and, consequently, of their independence. On this point, the Statute of the Iberoamerican Judge establishes that:

> Art. 19. Principle of legality in the judge's responsibility. Judges shall be held criminally, civilly and disciplinarily responsible pursuant to the provisions of the law. The requirement of responsibility shall not protect attacks on judicial independence that it is attempted to conceal by their official nature[172].

In this specific case, the Court considered that the disciplinary provision applied to Mr. Urrutia Laubreaux not only permitted a discretionality that was incompatible with the degree of predictability that the regulation should reveal in violation of the principle of legality contained in Article 9 of the Convention, but also judicial independence[173].

Although it is evident that there are limitations inherent in the judicial function in relation to public statements, especially with regard to the cases submitted to the jurisdictional decisions of judges, these should not be confused with statements that criticize other judges and, especially, statements made in public defense of their own functional performance[174]. Prohibiting judges from criticizing the functioning of the power of the State of which they form part, which necessarily involves the criticism of the conduct of other judges, or requiring that they request authorization from the President of the highest court to do this and, moreover, that they must act in the same way when they wish to defend their own judicial actions, signifies opting for a hierarchized model of the Judiciary in the form of a corporation in which judges lack internal independence, with a propensity towards unconditional subordination to the authority of their own collegiate organs and although, formally, the intention may be to limit this to the disciplinary sphere, in practice, owing to inherent fear of this power, it results in subjugation to so-called "superior" jurisprudence and paralyzes the interpretive dynamic in the application of the law[175].

## • Obligation to investigate human rights violations committed against migrants

In the case of Roche Azaña v. Nicaragua, the Court recalled that due process of law is a right that must be guaranteed to everyone, regardless of their migratory status. The Court also considered that States have the duty to ensure that anyone who has suffered abuse or violation of their human rights as a result of border control measures has equal and effective access to justice, access to an effective remedy and to adequate, effective and prompt reparation of the harm suffered, and also pertinent information on the violations of his rights and the mechanisms for obtaining redress.

170 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 132.*
171 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 129.*
172 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 131.*
173 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 135.*
174 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 137.*
175 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 137.*

In the context of border area operations, States have the duty to investigate and, when applicable, prosecute abuses and violations of human rights, impose punishments in keeping with the severity of the offenses, and take measures to guarantee that these are not repeated[176].

States are obliged to take certain special measures that contribute to reducing or eliminating the obstacles and shortcomings that prevent the effective defense of a person's interests, merely for being a migrant. In the absence of such measures to ensure an effective and equal access to justice for individuals in a vulnerable situation, it can hardly be said that those who are in such disadvantageous conditions enjoy true access to justice and benefit from due process of law in equal conditions to those who are not faced with these disadvantages[177].

Regarding Mr. Roche Azaña, the Court noted that the State failed to inform him of the existence of criminal proceedings against the perpetrators of the shots that violated his personal integrity, and did not provide him with any type of professional assistance that could have compensated for his unfamiliarity with a legal system – foreign and alien to him – that supposedly protected him. The purpose of this would have been that Patricio Fernando Roche Azaña could have asserted his rights and defended his interests effectively and in equal procedural conditions to other justiciables. Consequently, the Court found that the State had failed to ensure his right of access to justice[178].

## E. Right to freedom of thought and expression (Article 13 of the ACHR)

### • Freedom of expression of officials dedicated to the administration of justice

In the *case of Urrutia Laubreaux v. Chile*, the Court reiterated that the American Convention ensures the right to freedom of expression to everyone, irrespective of any other consideration. In the case of those who exercise jurisdictional functions, the Court has indicated that, owing to their functions in the administration of justice, the freedom of expression of judges may be subject to different restrictions and in a way that does not affect other persons, including other public officials[179].

The general purpose of guaranteeing independence and impartiality is, in principle, a legitimate reasons for restricting certain rights of judges. Article 8(1) of the American Convention establishes that "[e]very person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial judge or tribunal." In this regard, the State has the obligation to establish rules to ensure that its judges and courts comply with these precepts. Therefore, the restriction of some specific conducts by judges in order to protect independence and impartiality in the exercise of justice is in keeping with the American Convention as a "right or freedom of others." The compatibility of such restrictions with the American Convention must be examined in each specific case, taking into account the content of the views and the circumstances. Thus, for example, opinions expressed in an academic context could be more permissible that those expressed in the media[180].

In its case law, this Court has reiterated that Article 13(2) of the American Convention establishes that subsequent imposition of liability for the exercise of freedom of expression must comply with the following requirements concurrently: (i) be previously established by law, in both form and substance; (ii) respond to a purpose permitted by the American Convention ("respect for the rights or reputations of others" or "the protection of national security, public order, or public health or morals"), and (iii) be necessary in a democratic society (and therefore comply with the requirements of suitability, necessity and proportionality)[181].

This Court considered that, although the freedom of expression of those who exercise jurisdictional functions may be subject to greater restrictions than that of other individuals, this does not mean that any expression by a judge can be restricted. Thus, it was not in keeping with the American Convention to sanction the views included in an academic

176 *Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403, para. 91.*
177 *Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403, para. 92.*
178 *Case of Roche Azaña et al. v. Nicaragua. Merits and reparations. Judgment of June 3, 2020. Series C No. 403, para. 92.*
179 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 82.*
180 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 84.*
181 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 85.*

paper on a general topic and not on a specific case, such as in the specific case of Urrutia Laubreaux v. Chile[182].

## F. Right to property (Article 21 of the ACHR)

### • Right to indigenous communal property

In the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court reiterated its case law established in 2001 in the case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua. In this regard, the Court recalled that the right to private property recognized in Article 21 of the Convention included, in the case of indigenous peoples, the communal ownership of their lands. It explained that among indigenous people there is a community tradition that relates to a communal form of collective ownership of the land, in the sense that its possession is not centered on an individual, but rather on the group and its community. Indigenous people, due to their very existence, have the right to live freely on their own territories; the close relationship that indigenous people have with the land should be recognized and understood as the very foundation of their cultures, their spiritual life, their integrity, and their economic survival[183].

Similarly, in the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court reiterated its considerations in the 2005 case of the Yakye Axa Indigenous Community v. Paraguay, where it understood that that the right to property protected not only the connection of the indigenous communities to their territories, but also to "the natural resources these territories contain that are connected to their culture, as well as the intangible elements derived from them." The Court also recalled that, in the case of the Saramaka People v. Suriname, it had established that the right to the use and enjoyment of the territory would have no meaning if it were not connected to the natural resources that are found within that territory." Consequently, the ownership of the land relates to the need to ensure the security and permanence of the control and use of the natural resources which, in turn, preserve the way of life of the communities. The resources that are protected by the right to communal property are those that the communities have used traditionally and that are necessary for the very survival, development and continuity of their way of life[184].

In addition in the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court reiterated that, in the 2001 case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, it had determined that the possession of the land should suffice for the indigenous communities to obtain official recognition of their communal ownership and its consequent registration. This action declares the pre-existing right; it does not constitute the right. Furthermore, the Court reiterated that, in the 2005 case of the Yakye Axa Indigenous Community v. Paraguay, it had stressed that the State should not only acknowledge the right to communal property, but should also make this "truly effective in practice," and in the 2006 case of the Sawhoyamaxa Indigenous Community v. Paraguay, the Court stipulated that: (1) traditional possession of their lands by indigenous people has equivalent effects to those of a state-granted full property title; (2) traditional possession entitles indigenous people to demand official recognition and registration of property title; (3) the members of indigenous peoples who have unwillingly left their traditional lands, or lost possession thereof, maintain property rights thereto, even though they lack legal title, unless the lands have been lawfully transferred to third parties in good faith, and (4) the members of indigenous peoples who have unwillingly lost possession of their lands, when those lands have been lawfully transferred to innocent third parties, are entitled to restitution thereof or to obtain other lands of equal extension and quality[185].

In this regard, in the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court recalled that the State was obliged to give "geographical certainty" to the communal property, as it had indicated when deciding the case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua. On that occasion,

182 *Case of Urrutia Laubreaux v. Chile. Preliminary objections, merits, reparations and costs. Judgment of August 27, 2020. Series C No. 409, para. 89.*
183 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 93.*
184 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 94.*
185 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 95.*

and in subsequent decisions, the Court had referred to the obligation "to delimit" and "to demarcate" the territory, in addition to the obligation to "grant title to it."[186] Accordingly, the State must ensure the that the indigenous peoples have real ownership and, therefore, it must: (a) delimit indigenous lands from others and grant collective title to the lands of the communities; (b) "refrain from carrying out actions that may result in agents of the State or third parties acting with its acquiescence or tolerance, adversely affecting the existence, value, use and enjoyment of their territory," and (c) guarantee the right of the indigenous peoples to truly control and use their territory and natural resources, and to own their territory without any type of external interference from third parties[187].

## • Indigenous communal property and the right to recognition of juridical personality (Articles 21 and 3 of the American Convention on Human Rights)

In the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court considered that the State should recognize the juridical personality of the communities to enable them to take decision on the land in accordance with their traditions and forms of organization[188].

## • Right to participation in relation to projects or public works on the communal property (Articles 21 and 23 of the American Convention on Human Rights)

In the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court understood that, bearing in mind the circumstances, it might be pertinent – in relation to the right to consultation – to distinguish between maintenance or improvement of existing infrastructure and the execution of new projects or public works. Activities merely to adequately maintain or improve public works do not always require the intervention of prior consultation procedures. Otherwise, this could entail an unreasonable or excessive understanding of the State's obligations with regard to the rights to consultation and participation, a matter that must be evaluated based on the specific circumstances[189].

The "importance" of a public work (in this case, an international bridge) which "involves State policies and the administration of territorial borders, as well as decisions with implications for the economy, the State's interests and its sovereignty […], as well as the government's management of the interests of the […] population in general" does not authorize the State to disregard the right of the communities to be consulted"[190].

## • Determination of presumed victims taking cultural characteristics into consideration

In the case Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court indicated that, in order to determine which indigenous communities should be considered presumed victims in a case before the Court, it was necessary to consider their inherent cultural characteristics, if this was relevant. Moreover, this is necessary even if it is complicated or contrary to formal delimitations that could be established for practical reasons. The Court found that delimiting the presumed victims by ignoring the cultural characteristics of the communities concerned would be inconsistent with the protection of the rights of indigenous peoples and communities based on their cultural identity; it could also impact the effectiveness of the decision taken by the Court[191].

186 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 96.*
187 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 98.*
188 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 155.*
189 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 179.*
190 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, paras. 181 and 182.*
191 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 34.*

- **Rights of "criollos" or peasant farmers (not necessarily indigenous people)**

In the *case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Court took into consideration the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UN General Assembly resolution A/RES/73/165, adopted on December 17, 2018). Based on its contents, the Court noted that "the State has obligations towards the criollo population, because, given their vulnerable situation, the State must take positive steps to ensure their rights"[192]. Accordingly, in this specific case, The Court considered that although the criollo population were not "a formal party to the international judicial proceedings […] it is undeniable that they are a party, in the physical sense, to the substantive conflict related to the use and ownership of the land, and [it was] relevant to take their situation into account in order to examine this case appropriately and to ensure the effectiveness of the decision adopted [by the Court]"[193]. Therefore, the Court understood that when taking actions to demarcate the indigenous property and to transfer or relocate the criollo population outside this property, the State "should respect the rights of the criollo population"[194].

These consideration had an impact on the type of measures of reparation required in the specific case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, and that were established in favor of the indigenous communities (and not the criollo population). The Court established certain standards for the relocation of the criollo population outside the indigenous territory: "(a) The State must facilitate procedures aimed at the voluntary relocation of the criollo population, endeavoring to avoid compulsory evictions; (b) To guarantee this, during the first three years following notification of this judgment, the State, judicial, administrative and any other authorities, whether provincial or national, may not execute compulsory or enforced evictions of criollo settlers; (c) Notwithstanding the process of agreements […] described in this judgment, the State must make mediation or arbitral procedures available to interested parties to determine relocation conditions; if such procedures are not used, recourse may be had to the corresponding legal proceedings. During these procedures, those concerned may argue their claims and the rights they consider they possess, but they may not challenge the right to indigenous communal property determined in this judgment and, consequently, the admissibility of their relocation outside indigenous territory. The authorities that have to decide these procedures may not take decisions that prevent compliance with this judgment; (d) In any case, the competent administrative, judicial or other authorities must ensure that the relocation of the criollo population is implemented, safeguarding their rights. Accordingly, provision should be made for resettlement and access to productive land with adequate property infrastructure (including implanting pasture and access to sufficient water for production and consumption, as well as the installation of the necessary fencing) and, if necessary, technical assistance and training for productive activities"[195].

## G. Freedom of expression and incompatibility of the use of criminal law against the dissemination of a public interest note referring to a public official (Article 13)

In the *case of Petro Urrego v. Colombia*, the Court reiterated, in relation to the protection of political rights, that representative democracy is one of the pillars of the entire system of which the Convention forms part, and constitutes a principle reaffirmed by the American States in the Charter of the Organization of American States. In this regard, the OAS Charter, a constitutive treaty of the organization to which Colombia has been a party since July 12, 1951, establishes as one of its essential purposes "the promotion and consolidation of representative democracy, with due respect for the principle of non-intervention"[196].

In the inter-American System, the relationship between human rights, representative democracy and political rights

192 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, paras. 136 and 137.*
193 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 136.*
194 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 138.*
195 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 329.*
196 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 90.*

in particular, was embodied in the Inter-American Democratic Charter, approved in the first plenary session of September 11, 2001, during the twenty-eighth OAS General Assembly[197]. The Inter-American Democratic Charter refers to the peoples' right to democracy and also stresses the importance, under representative democracy, of the permanent participation of citizens within the framework of the legal and constitutional order in force. Furthermore, it indicates that one of the constituent elements of representative democracy is "the access to and the exercise of power in accordance with the rule of law." For its part, Article 23 of the American Convention recognizes the rights of citizens, which have an individual and collective dimension, protecting both those who participate as candidates and their electors. The first paragraph of this article recognizes the rights of all citizens: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected in genuine and periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and (c) to have access, under general conditions of equality, to the public service of their country[198].

The effective exercise of political rights constitutes an end in itself and, also, an essential means that democratic societies have to ensure the other human rights established in the Convention. Moreover, according to Article 23 of the Convention, the holders of these rights – in other words, the citizens – should enjoy not only these rights, but also "opportunities." The latter term entails the obligation to ensure, by taking positive measures, that anyone who is the formal holder of political rights has the real possibility of exercising them. Political rights and their exercise promote the strengthening of democracy and political pluralism. Consequently, the State must facilitate ways and means to ensure that these political rights can be exercised effectively, respecting the principles of equality and non-discrimination. Political participation may include diverse and wide-ranging activities that the population carries out individually or on an organized basis in order to intervene in the appointment of those who will govern a State or who will be in charge of managing public affairs, as well as to influence the development of State policies through direct participation mechanisms or, in general, to intervene in matters of public interest, such as the defense of democracy[199].

At the same time, the Court recalls that political rights are not absolute rights, and their exercise may be subject to regulations or restrictions. However, the authority to regulate or restrict rights is not discretionary, but is limited by international law and is subject to compliance with certain requirements which, if not respected, render that restriction illegitimate and contrary to the American Convention. In this regard, paragraph 2 of Article 23 of the Convention establishes that the law may regulate the exercise of the rights and opportunities referred to in the first paragraph of this article "only" on the basis of "age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings. It should also be recalled that, pursuant to Article 29 of the Convention, no provision of the Convention may be interpreted as restricting rights to a greater extent than is provided for in the Convention[200].

In the specific *case of Petro Urrego v. Colombia*, the Court noted that the Commission and the parties hold different interpretations regarding the scope of Article 23(2) of the Convention, in particular whether the said article allows for restrictions of the political rights of democratically elected authorities as a result of sanctions imposed by authorities other than a "competent judge in criminal proceedings," and the conditions under which such restrictions may be valid. In this regard, the Court recalls that in the case of López Mendoza v. Venezuela, it ruled on the scope of the restrictions imposed by Article 23(2) in relation to the disqualification of Leopoldo López Mendoza by the Comptroller General, who banned him from participating in the 2008 regional elections in Venezuela. In that case, the Court stated the following:

> 107. Article 23(2) of the Convention sets out the various causes that can restrict the rights recognized in Article 23(1) and, where applicable, the requirements that must be met for such a restriction to be applied appropriately. In this case, which concerns a restriction imposed by way of a sanction, it should relate to a "conviction by a competent court in criminal proceedings." None of these requirements have been fulfilled, given that the body that imposed the sanctions was not a "competent court," there was no

197 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 91.*
198 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 92.*
199 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 93.*
200 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 94.*

"conviction," and the sanctions were not applied as a result of a "criminal proceeding," where the judicial guarantees enshrined in Article 8 of the American Convention should have been respected[201].

The Court reiterated that Article 23(2) of the American Convention makes clear that this instrument does not allow any administrative body to apply a sanction involving a restriction (for example, imposing a sanction of disqualification or dismissal) on a person for social misconduct (in the performance of public service or outside of it) in the exercise of their political rights to elect and be elected. This may only occur through a judicial act (judgment) by a competent judge in the corresponding criminal proceedings. The Court considers that the literal interpretation of this provision makes it possible to reach this conclusion, since both dismissal and disqualification are restrictions on the political rights, not only of popularly elected public officials, but also of their constituents[202].

According to the Court, this literal interpretation is corroborated by considering the object and purpose of the Convention to understand the scope of Article 23(2). The Court has stated that the object and purpose of the Convention is "the protection of the fundamental rights of human beings, as well as the consolidation and protection of a democratic system. Article 23(2) of the Convention corroborates that objective, since it allows for the possibility of establishing regulations that facilitate conditions for the enjoyment and exercise of political rights. Similarly, the American Declaration does so in Article XXVIII, by recognizing the possibility of establishing restrictions on the exercise of political rights when these are "necessary in a democratic society." For the same purposes, Article 32(2) of the Convention is relevant inasmuch as it provides that "[t]he rights of each person are limited by the rights of others, by the security of all and by the just demands of the general welfare, in a democratic society"[203].

A teleological interpretation emphasizes that, in any restrictions on the rights recognized by the Convention, there must be strict respect for the guarantees established in the treaty. The Court considers that Article 23(2) of the Convention, by providing a list of possible reasons for restricting or regulating political rights, aims to identify clear criteria and specific systems under which such rights may be limited. This seeks to ensure that the restriction of political rights is not left to the discretion or will of the incumbent government, in order to allow the political opposition to exercise its rights without undue constraints. Thus, the Court considers that the sanctions of dismissal and disqualification of democratically elected public officials by a disciplinary administrative authority are restrictions on political rights not included among those permitted by the American Convention. They are incompatible not only with the literal meaning of Article 23(2) of the Convention, but also with the object and purpose of that instrument[204].

## H. Economic, social, cultural and environmental rights (Article 26 of the ACHR)

### • Prohibition of child labor in hazardous and unhealthy conditions and the employment of children of less than 14 years of age

In the *case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil*, the Court found that several children and adolescents worked in the fireworks factory. And, of the 60 people who died, 19 were girls and one was a boy, the youngest of whom was 11 years of age. Meanwhile, the survivors included a girl and two boys who were between 15 and 17 years of age[205]. In this regard, Article 19 of the American Convention establishes that children have the right to special measures of protection. According to the Court's case law, this mandate has an impact on the interpretation of the other rights recognized in the Convention, including the right to work in the terms defined in the previous section. In addition, this Court has understood that Article 19 of the Convention establishes an obligation for the State to respect and ensure the rights recognized to children in other international instruments; accordingly, when defining the meaning and scope of the State's obligations in relation to the rights of the child it is necessary to have recourse to the international corpus iuris, in particular, to the Convention on the Rights of the Child (CRC)[206].

201 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 94.*
202 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 96.*
203 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 97.*
204 *Case of Petro Urrego v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of July 8, 2020. Series C No. 406, para. 98.*
205 *Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, para. 177.*
206 *Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment*

Based on the standards described above, the Court finds that, in light of the American Convention, children have a right to special measures of protection. These measures, according to the CRC, include protection from work that may interfere with their education or be harmful to their health and development, as in the case of the manufacture of fireworks. In addition, the Court finds, in application of Article 29(b) of the American Convention and in light of the laws of Brazil, that hazardous, unhealthy and night work was absolutely prohibited in Brazil for children under 18 years of age at the date of the facts. Therefore, the State should have taken every measure available to it to ensure that no child was working in activities such as those carried out in the fireworks factory.

## • Indigenous and tribal peoples – rights to a healthy environment, to adequate food, to water and to participate in cultural life

In the *case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Court declared, for the first time, a violation of the rights to a healthy environment, to adequate food, to water, and to participate in cultural life based on Article 26 of the American Convention.

## • The right to a healthy environment

In the *case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Court referred back to some crucial aspects developed in Advisory Opinion 23/17 on "The Environment and Human Rights," issued on November 15, 2017. In this regard, it reiterated that the right to a healthy environment "must be considered one of the rights […] protected by Article 26 of the American Convention," given the obligation of the State to ensure "integral development for their peoples," as revealed by Articles 30, 31, 33 and 34 of the Charter[207]. Accordingly, the Court reaffirmed its considerations in the said Opinion to the effect that "the right to a healthy environment "constitutes a universal value"; it "is a fundamental right for the existence of humankind," and "as an autonomous right […] it protects the components of the environment, such as forests, rivers and seas, as legal interests in themselves, even in the absence of the certainty or evidence of a risk to individuals. This means that nature must be protected, not only because of its benefits or effects for humanity, "but because of its importance for the other living organisms with which we share the planet." This evidently does not mean that other human rights will not be violated as a result of damage to the environment[208].

Also, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (hereinafter "Protocol of San Salvador"), and its Article 11, entitled "Right to a Healthy Environment" establishes that: "1. Everyone shall have the right to live in a healthy environment and to have access to basic public services. 2. The States Parties shall promote the protection, preservation and improvement of the environment"[209]. Additionally, the Court noted that the right to a healthy environment has been recognized by various countries of the Americas and, as the Court has already noted, at least 16 States of the hemisphere include this in their Constitutions[210].

In the specific case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina the Court considered that, regarding the right to a healthy environment, not only the obligation to respect right applies, but also the obligation to ensure rights established in Article 1(1) of the Convention, and one of the ways of complying with this is to prevent violations. This obligation extends to the "private sphere" in order to avoid "third parties violating the protected rights," and "encompasses all those legal, political, administrative and cultural measures that promote the safeguard of human rights and that ensure that eventual violations of those rights are examined and dealt with as wrongful acts." In this regard, the Court has indicated that, at times, the States have the obligation to establish

*of July 15, 2020. Series C No. 407, para. 178.*

207 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 202.*

208 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 203.*

209 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 205.*

210 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 206.*

adequate mechanisms to monitor and supervise certain activities in order to ensure human rights, protecting them from actions of public entities and also private individuals. The obligation to prevent is an obligation of means or conduct and non-compliance is not proved by the mere fact that a right has been violated.

The Court underscored that the principle of prevention of environmental harm forms part of customary international law and entails the State obligation to implement the necessary measures ex ante damage is caused to the environment, taking into account that, owing to its particularities, after the damage has occurred, it will frequently not be possible to restore the previous situation. Based on the duty of prevention, the Court has pointed out that States are bound to use all the means at their disposal to avoid activities under their Jurisdiction causing significant harm to the environment.

This obligation must be fulfilled in keeping with the standard of due diligence, which must be appropriate and proportionate to the level of risk of environmental harm. Even though it is not possible to include a detailed list of all the measures that States could take to comply with this obligation, the following are some measures that must be taken in relation to activities that could potentially cause harm: (i) regulate; (ii) supervise and monitor; (iii) require and approve environmental impact assessments; (iv) establish contingency plans, and (v) mitigate, when environmental damage has occurred[211].

## • Right to adequate food

In the *case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Court considered that, from Article 34(j) of the Charter, interpreted in light of the American Declaration, and considering the other instruments cited, it is possible to derive elements that constitute the right to adequate food. The Court considered that, essentially, this right protects access to food that permits nutrition that is adequate and appropriate to ensure health. As the United Nations Committee on Economic, Social and Cultural Rights (the CESCR) has indicated, this right is realized when everyone has "physical and economic access at all times to adequate food or means for its procurement […] and shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients"[212]. The concepts of "adequacy" and "food security" are particularly important in relation to the right to food. The former serves to underline that it is not just any type of food that satisfies the right; rather there are a number of factors that must be taken into account when determining whether a particular food is "appropriate." The second concept relates to "sustainability" and "implies food being accessible for both present and future generations." The CESCR also explained the need for "cultural or consumer acceptability, [which] implies the need also to take into account, as far as possible, perceived non-nutrient-based values attached to food and food consumption"'[213].

States have the obligation not only to respect, but also to ensure the right to food, and should understand that this obligation includes the obligation to "protect" this right as this was conceived by the CESCR: "[t]he obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food." Accordingly, the right is violated by a State's "failure to regulate activities of individuals or groups so as to prevent them from violating the right to food of others[214].

## • Right to water

In the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court considered that the right to water is protected by Article 26 of the American Convention and this is revealed by the

211 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 208.*
212 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 216.*
213 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 220.*
214 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 221.*

provisions of the OAS Charter that permit deriving rights from which, in turn, the right to water can be understood. In this regard, it is sufficient to indicate that they include the right to a healthy environment and the right to adequate food, and their inclusions in the said Article 26 has been established in the judgment, as has the right to health, which the Court has also indicated is included in this article. The right to water may be connected to other rights, even the right to take part in cultural life, which is also addressed in this judgment[215].

Having described the legal provisions that support this right, it is relevant to indicate its content. The CESCR has indicated that:

> The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements[216].

Similarly, the Court, following the guidance of the CESCR has stated that "access to […] water […] includes 'consumption, sanitation, laundry, food preparation, and personal and domestic hygiene,' and for some individuals and groups it will also include 'additional water resources based on health, climate and working conditions"[217]. Regarding the obligations entailed by the right to water, it is worth adding some more specific elements. Clearly, there is an obligation to respect the exercise of this right, as well as the obligation to ensure it, as established in Article 1(1) of the Convention. This Court has indicated that "access to water" involves "obligations to be realized progressively"; "however, States have immediate obligations such as ensuring [access] without discrimination and taking measures to achieve [its] full realization." The State duties that it can be understood are contained in the obligation to ensure this right include providing protection against actions by private individuals, and this requires the States to prevent third parties from impairing the enjoyment of the right to water, as well as "ensuring an essential minimum of water" in "specific cases of individuals or groups of individuals who are unable to access water […] by themselves for reasons beyond their control[218].

The Court agreed with the CESCR that, in compliance with their obligations in relation to the right to water, States "should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including […] indigenous peoples." And should ensure that "[i]ndigenous peoples' access to water resources on their ancestral lands is protected from encroachment and unlawful pollution [… and] provide resources for indigenous peoples to design, deliver and control their access to water," and also that "nomadic and traveller communities have access to adequate water at traditional […] halting sites"[219].

## • Right to take part in cultural life

In the case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, the Court considered that the right to take part in cultural life, which includes the right to cultural identity, was established in Articles 30, 45(f), 47 and 48 of the OAS Charter, In particular, this establishes the commitment of the States to ensure: (a) the integral development [of] their people [… which] encompasses the […] cultural [aspect]"; (b) "the incorporation and increasing participation of the marginal sectors of the population, in both rural and urban areas, in the […] cultural […] life of the nation, in order to achieve the full integration of the national community"; (c) the "encouragement of […] culture," and (d) the "preserv[ation] and enrich[ment of] the cultural heritage of the American peoples"[220].

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215 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 222.*

216 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 225.*

217 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 226.*

218 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 229.*

219 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 230.*

220 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February*

The provisions indicated should be understood and applied in harmony with other international commitments made by the States, such as those that arise from Article 15 of the International Covenant on Economic, Social and Cultural Rights and Article 27 of the International Covenant on Civil and Political Rights or Convention 169 of the International Labour Organization. Therefore, it should not be understood that such norms call for State policies that encourage the assimilation of minorities or groups with their own cultural patterns into a culture that is considered majority or dominant. To the contrary, the mandates to ensure integral development, to incorporate and to increase the participation of sectors of the population to seek their full integration, to stimulate culture and to preserve and enrich the cultural heritage, should be understood in the context of respect for the characteristic cultural life of the different groups such as indigenous communities. Therefore, participation, integration or incorporation into cultural life should be sought respecting cultural diversity and the rights of the different groups and their members[221].

That said, regarding the concept of "culture," it is useful to take into account the definition of the United Nations Educational, Scientific and Cultural Organization (UNESCO), that this is "the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs[222].

Cultural diversity and its richness should be protected by the States because, in the words of UNESCO, it "is as necessary for humankind as biodiversity is for nature[;] it is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations." States are obliged to protect and promote cultural diversity and policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace. Therefore, cultural pluralism gives policy expression to the reality of cultural diversity[223].

The Court understands that the right to cultural identity protects the freedom of individuals, including when they are acting together or as a community, to identify with one or several societies, communities or social groups, to follow a way of life connected to the culture to which they belong and to take part in its development. Thus, this right protects the distinctive features that characterize a social group without denying the historical, dynamic and evolutive nature of culture"[224].

Among the State obligations relating to the right to take part in cultural life, the CESCR has indicated "the obligation to fulfill" that requires States to take appropriate legislative, administrative, judicial, budgetary, promotional and other measures aimed at the full realization of the right, and "the obligation to protect" that requires States to take steps to prevent third parties from interfering in the right to take part in cultural life. The CESCR explained that the States have "minimum core obligations," which include "[t]o protect the right of everyone to engage in their own cultural practices." It also indicated the right is violated through the omission or failure of a State party to take the necessary measures to comply with its [respective] legal obligations[225].

## • Interdependence between the rights to a healthy environment, adequate food, water and cultural identity and specificity in relation to indigenous peoples

In the *case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Court indicated that the rights to a healthy environment, to adequate food, to water and to cultural identity are closely related,

*6, 2020. Series C No. 400, para. 231.*

221 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 234.*

222 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 237.*

223 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 238.*

224 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 240.*

225 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 242.*

so that some aspects related to the observance of one of them may overlap with the realization of others.[226] Thus, there are threats to the environment that may have an impact on food. The right to food, and also the right to take part in cultural life and the right to water, are particularly vulnerable to environmental impacts[227].

It is also important to emphasize that the management by the indigenous communities of the resources that exist in their territories should be understood in pragmatic terms, favorable to environmental preservation. Principle 22 of the Rio Declaration is very clear in this regard when it indicates that indigenous people and their communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development[228].

Additionally, it is necessary to take into account the indications of the Human Rights Committee that the right of the people to enjoy a particular culture "may consist in a way of life closely associated with territory and the use of its resources" as in the case of members of indigenous communities. The right to cultural identity may be expressed in different ways; in the case of indigenous peoples this includes "a particular way of life associated with the use of land resources. That right may include such traditional activities a fishing or hunting and the right to live in reserves protected by law. In this regard, the Court has had occasion to note that the right to collective ownership of indigenous people is connected to the protection of and access to the natural resources that are on their territories[229].

It is necessary to take into consideration the interdependence of the rights analyzed and the correlation that the enjoyment of these rights has, in the circumstances of the case. In addition, these right should not be understood restrictively. It has already been indicated that the environment is connected to other rights and that there are "threats to the environment" that may have an impact on food, water and cultural life. Furthermore, it is not just any food that meets the requirements of the respective right, but it must be acceptable to a specific culture, which means that values that are unrelated to nutrition must be taken into account. At the same time, food is essential for the enjoyment of other rights and, for it to be "adequate," this may depend on environmental and cultural factors. Thus, food is, in itself, a cultural expression. In this regard it may be considered as one of the "distinctive features" that characterize a social group and, consequently, included in the protection of the right to cultural identity by the safeguard of such features, without this entailing a denial of the historical, dynamic and evolutive nature of culture[230].

This is even more evident in the case of indigenous peoples, regarding whom there are specific laws that require the safeguard of their environment, the protection of the productive capacity of their lands and resources, and considering traditional activities and those related to their subsistence economy such as hunting, gathering and others as "important factors for preserving their culture." The Court has emphasized that the lack of access to the territories and corresponding natural resources may expose the indigenous communities to several violations of their human rights in addition to causing them suffering and prejudicing the preservation of their way of life, customs and language. In addition, it has noted that "States must protect the close relationship that indigenous peoples have with the land" and their life project, in both its individual and its collective dimensions[231].

The Court considered it necessary to point out that, given the evolutive and dynamic nature of culture, the inherent cultural patterns of the indigenous peoples may change over time and based on their contact with other human groups. Evidently, this does not take away the indigenous nature of the respective peoples. In addition, this dynamic

226 Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 243

227 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 245*.

228 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 250*.

229 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 251*.

230 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 274*

231 *Caso Comunidades Indígenas Miembros de la Asociación Lhaka Honhat (Nuestra Tierra) Vs. Argentina*. Fondo, Reparaciones y Costas. Sentencia de 6 de febrero de 2020. Serie C No. 400, párr. 275.

characteristic cannot, in itself, lead to denying the occurrence, when applicable, of real harm to cultural identity. In the circumstances of this case, the changes in the way of life of the communities, noted by both the State and the representatives, have been related to the interference in their territory by non-indigenous settlers and activities alien to their traditional customs. This interference, which was never agreed to by the communities but occurred in a context of a violation of the free enjoyment of their ancestral territory, affected natural or environmental resources on this territory that had an impact on the indigenous communities traditional means of feeding themselves and on their access to water. In this context, the alterations to the indigenous way of life cannot be considered, as the State claims, as introduced by the communities themselves, as if they had been the result of a deliberate and voluntary decision. Consequently, there has been harm to cultural identity related to natural and food resources[232].

## • Labor rights – right to just and satisfactory working conditions that ensure occupational safety, health and hygiene

In the *case of Spoltore v. Argentina* Court considered that the nature and scope of the obligations derived from protection of the right to working conditions that ensure the worker's health include aspects that can be required immediately, and also aspects of a progressive nature. In this regard, the Court recalled that, in the case of the former (obligations that can be required immediately), States must take effective measures to ensure access, without discrimination, to the safeguards recognized by the right to working conditions that ensure the worker's health. These obligations include that of making adequate and effective mechanisms available so that workers affected by an occupational accident or disease can request compensation. In the case of the latter (obligations of a progressive nature), the progressive realization means that the States Parties have the specific and constant obligation to progress as rapidly and efficiently as possible towards the full effectiveness of this rights, subject to available resources, by legislative or other appropriate means. Also, there is an obligation of non-retrogressivity in relation to the rights achieved. Based on the foregoing, the Convention-based obligations to respect and to ensure rights, as well as to adopt domestic legislative measures (Articles 1(1) and 2), are fundamental to achieve their effectiveness[233].

In the specific case of Spoltore v. Argentina, the Court considered that, based on the criteria and elements that constitute the right to working conditions that ensure the worker's health, among other obligations, States must ensure that workers who suffer a preventable occupational accident or disease have access to adequate complaints mechanisms, such as courts, to request reparation or compensation. The Court reiterated that access to justice is one of the components of the right to working conditions that ensure the worker's health. The Court has indicated that labor rights and the right to social security include the obligation to have effective complaints mechanisms if they are violated in order to guarantee the right of access to justice and to effective judicial protection, in both the public and private sphere of labor relations. This is also applicable to the right to just and satisfactory working conditions that ensure the worker's health[234].

In the case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil, the Court concluded that the right to just and favorable conditions that ensure occupational safety, health and hygiene meant that that the worker must be able to carry out his work in adequate conditions of safety, hygiene and health that prevent occupational accidents and this is especially relevant in the case of activities that involve significant risk to the life and integrity of the workers. This right involves the adoption of measures to prevent or reduce work-related risks and occupational accidents; the obligation to provide adequate protection equipment for work-related hazards; the classification by the labor authorities of unhealthy and unsafe workplaces, and the obligation to oversee such conditions, also under the responsibility of the labor authorities[235].

232 *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina. Merits, reparations and costs. Judgment of February 6, 2020. Series C No. 400, para. 284.*
233 *Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs. Judgment of June 9, 2020. Series C No. 404, para. 97.*
234 *Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs. Judgment of June 9, 2020. Series C No. 404, para. 101.*
235 Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, para. 174.

## I. Provisional measures (Article 63(2))

### • COVID-19 and migrants

In its order on provisional measures in the *case of Vélez Loor v. Panama*, the Court considered that, in the actual context resulting from the COVID-19 pandemic, migrants who are in transit are prevented from moving on and continuing their travels, and this could result in exceeding the operating capacity of existing shelters. Consequently, the State must take appropriate additional measures to prevent the spread of COVID-19 and provide the required medical care. This situation highlights the urgent need to provide assistance to the migrant population – which consists of flows of migrants from different countries, and even from other continents – in such essential areas as health care for pre-existing conditions, inputs for adequate hygiene, food and accommodation in shelters until they are able to resume their travels, as well as the special needs for protection based on age and gender, among other factors[236].

In the Court's opinion, the situation described revealed a risk to the health, personal integrity and life of numerous individuals, and the severity of this risk warranted an immediate intervention in favor of a group of individuals in a vulnerable situation, as are migrants and other aliens in a context of human migration that may require international protection. This vulnerability is increased owing to the pandemic and, consequently, requires the State to provide special protection. The worldwide public health situation resulting from the COVID-19 pandemic has led States to take a series of measures to address the crisis that have impaired the exercise and enjoyment of a series of rights, with a particular impact on migrants. The Court noted this in its Statement 1/20 "COVID-19 and Human Rights: The problems and challenges that must be addressed from the perspective of human rights and respect for international obligations," and so have other specialized international bodies[237].

States have a special position of guarantor of the rights of those who are in their custody in the Migrant Reception Stations. COVID-19 requires taking rigorous measures to mitigate the risk to life, personal integrity and health of those who are retained in them, including:

a) Reduce overcrowding as much as possible in order to respect the recommended rules on social distancing to prevent the virus from spreading, paying special attention to individuals with risk factors and including the possibility of examining alternative community-based measures;

b) Determine, when possible, based on best interest, options of family or community hosting for unaccompanied child and adolescent migrants, as well as for those who are with their families to preserve the family unit, as established in Advisory Opinion OC-21/2014;

c) Ensure respect for the principle of non-refoulement for all aliens when their life, safety or personal integrity is at risk, as well as effective access to asylum procedures when appropriate;

d) Take measures to prevent the risk of violence and, in particular, sexual violence, to which women and child migrants are exposed;

e) Establish protocols or actions plans to prevent the spread of COVID-19 and treat migrants who become infected, based on the recommended standards. Among other aspects, ensure health screening for everyone who enters the facility, verifying whether they have a temperature or symptoms of the disease; carry out biological testing for all cases classified as "suspicious," and take the necessary medical, quarantine and/or isolation measures;

f) Provide migrants with free access, without discrimination, to health care services, including those required to address COVID-19, guaranteeing good quality and effective medical care, of the same standard available in the community;

236 *Case of Vélez Loor Vs. Panama. Provisional measures. Adoption of provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020, Considering paragraph 22.*

237 *Case of Vélez Loor Vs. Panama. Provisional measures. Adoption of provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020, Considering paragraph 23.*

g) Provide pregnant women with free access to sexual and reproductive health care services, as well as maternity care services, and facilitate adequate health care services for children;

h) Take all necessary measures to overcome legal, language and cultural barriers that hinder access to health care and information;

i) Take measures to ensure natural ventilation, maximum cleanliness, sanitization, and collection of waste to avoid the spread of the virus;

j) Continue to provide, free of charge, masks, gloves, alcohol, paper towels, toilet paper, and garbage bags, among other elements, for both the population in the facilities, and for staff and cleaning personnel;

k) Promote, by providing the necessary information and supplies, the personal hygiene measures recommended by the health authorities, such as regular hand and body washing with soap and water to prevent the spread of the virus and other infectious diseases;

l) Provide sufficient food and drinking water, paying special attention to pre- and post-natal nutritional requirements;

m) Enable access to mental health services for those who require this, taking into account anxiety and/or other pathologies that may result from fear caused by the COVID-19 situation;

n) Guarantee access to the Migrant Reception Stations for the Ombudsman and other independent monitoring mechanisms, and also international agencies and civil society; and

o) Avoid the measures taken promoting xenophobia, racism or any other form of discrimination.

The Court recalled its Statement of April 9, 2020, in which it indicated, in particularly, that "[t]he extraordinary problems and challenges resulting from this pandemic must be addressed through dialogue, together with regional and international cooperation that is implemented jointly, transparently and in a spirit of solidarity between all the States. Multilateralism is essential in order to coordinate regional efforts to contain the pandemic." In this regard, the Court recommended that "multilateral agencies, whatever their nature, must help and cooperate with the States, with a human rights-based approach, to seek solutions to the present and future problems and challenges that this pandemic is causing and will cause"[238].

The Court emphasized that the difficulties of the current circumstances called for synergy and solidarity between States, international organizations and civil society to provide an effective regional and global response to the pandemic-related challenges faced by migrants. In light of the principle of shared responsibility, and taking into account the complex and transborder characteristics of the phenomenon of migration, increased by the pandemic, the Court deemed it pertinent to recall the importance of encouraging national, bilateral and regional dialogue to create the conditions to make safe, orderly and regular transit possible, that guarantees, effectively, the rights of migrants[239].

238 *Case of Vélez Loor Vs. Panama. Provisional measures. Adoption of provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020, Considering paragraph* 36.
239 *Case of Vélez Loor Vs. Panama. Provisional measures. Adoption of provisional measures. Order of the Inter-American Court of Human Rights of July 29, 2020, Considering paragraph 37*.

## J. Human rights obligations of a state that has denounced the American Convention on Human Rights and the Charter of the Organization of American States

In Advisory Opinion OC-26/20, the Court considered that, as a general rule, the denunciation of an international treaty must be consistent with the terms and conditions established in the treaty's text. The Court noted that the denunciation of the American Convention represents a backward step in the level of inter-American protection of human rights and in the quest to universalize the inter-American system[240].

### • The specificity of human rights treaties

The Court has repeatedly stated that international human rights treaties, such as the American Convention, are of a different juridical nature from general international public law. On the one hand, their object and purpose is the protection of the human rights of individuals and therefore their provisions should be interpreted on the basis of those values that the inter-American system seeks to safeguard from the perspective of the "best approach" for the protection of the individual. On the other hand, they create a legal order in which States assume obligations, not in relation to other States, but towards the individuals subject to their Jurisdiction[241].

### • The denunciation clause contained in the American Convention on Human Rights and its procedural norms

In the case of the American Convention on Human Rights, Article 78 describes two procedural requirements that must be met at the international level to validly denounce the American Convention in its entirety, namely: (i) at least five years' membership from the date of the treaty's entry into force, and (ii) notice, submitted one year in advance, to the OAS Secretary General who, as custodian of the treaty, shall inform the other States Parties. In this regard, the Court emphasizes that a State's intention to denounce the treaty cannot be presumed or inferred from domestic acts; such a denunciation must be made expressly and formally through the procedure established at the international level[242].
That said, the Inter-American Court pointed out that the American Convention does not expressly establish the procedures required under a State's domestic law for taking a decision of this nature. However, the Court observed a tendency to require the participation of the legislature in the approval of the denunciation in countries where this is regulated by a Constitution[243]. However, the Court noted that, regardless of the different domestic procedures in the region for denouncing treaties, the denunciation of a human right treaty in the region - particularly one that establishes a jurisdictional system for the protection of human rights, such as the American Convention – must be subject to a pluralistic, public and transparent debate within the States as it is a matter of great public interest because it implies a possible curtailment of rights and, in turn, of access to international justice. In this regard, the Court considered it pertinent to have recourse to the principle of parallelism of forms, which signifies that if a State has established a constitutional procedure for assuming international obligations it would be appropriate to follow a similar procedure

240 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 54.
241 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 51.
242 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 59.
243 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 61.

when it seeks to extricate itself from those obligations in order to guarantee public debate[244].

## • The effects on the international obligations of a Member State of the Organization of American States that has denounced the American Convention on Human Rights, and on the persons subject to its Jurisdiction

On the issue of the effects of denunciation of the American Convention, the Court determined that the main effect is to deprive the persons subject to the Jurisdiction of the State concerned of the possibility of having recourse to international judicial bodies such as the Inter-American Court to claim a complementary level of judicial protection of their rights. However, the Court considered that certain international human rights obligations will remain in effect for a Member State of the OAS[245].

In particular, the Court determined that, when an OAS Member State denounces the American Convention on Human Rights, its international human rights obligations stand as follows:

(1) Convention-based obligations remain intact during the period of transition to full denunciation;[246]

(2) definitive denunciation of the American Convention produces no retroactive effects[247];

(3) the validity of the obligations established through ratification of other inter-American human rights treaties remains in place;[248]

(4) the definitive denunciation of the American Convention does not invalidate the domestic efficacy of principles derived from Convention-based precepts interpreted as a standard for the prevention of human rights violations;[249]

(5) obligations associated with the minimum threshold of protection through the Charter of the OAS and the American Declaration remain under the supervision of the Inter-American Commission[250]; and

244 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 64.

245 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 114.

246 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 68 to 75.

247 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 76 to 82.

248 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 83 to 89.

249 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 90 to 93.

250 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 94 to 99.

(6) customary norms, those derived from general principles of international law and those pertaining to *jus cogens* continue to bind the State by virtue of general international law[251].

On this last point; namely, that norms derived from general principles of international law and those pertaining to *jus cogens* continue to bind the State by virtue of general international law, the Court considered that jus cogens is presented as the legal expression of the international community as a whole, based on universal and superior values, embodying basic standards that guarantee essential or fundamental human values related to life, human dignity, peace and security. The prohibition of acts of aggression, genocide, slavery and human trafficking, torture, racial discrimination and apartheid, crimes against humanity, as well as the right to self-determination, together with the norms of international humanitarian law, have been recognized as norms of jus cogens, which protect fundamental rights and universal values without which society would not prosper, and therefore produce obligations *erga omnes*[252].

Throughout its case law, the Inter-American Court has recognized the following *jus cogens* norms:

- Principle of equality and prohibition of discrimination;
- Absolute prohibition of all forms of torture, both physical and psychological;
- Prohibition of cruel, inhuman or degrading treatment or punishment;
- Prohibition of enforced disappearance of persons;
- Prohibition of slavery and other similar practices;
- Principle of *non-refoulement*, including non-rejection at borders and indirect *refoulement*;
- Prohibition to commit or tolerate serious, massive or systematic human rights violations, including extrajudicial executions, forced disappearances and torture;
- Prohibition of crimes against humanity and the associated obligation to prosecute, investigate and punish those crimes.

## • The effects on international human rights obligations of the denunciation of the Charter of the Organization of American States by a Member State that is not a party to the American Convention

The Court considered that the OAS Charter can be denounced pursuant to its Article 143. This article establishes: (1) the requirement to inform the General Secretariat in writing of the decision to denounce the treaty, and the latter's obligation, as custodian of the treaty, to communicate the denunciation to all other Member States; (2) a two-year transition period, and (3) the effects derived from the entry into force of the denunciation. On this last point the article establishes, on the one hand, that the Charter shall cease to be in force with respect to the denouncing State and, on the other, that the denouncing State "shall cease to belong to the Organization after it has fulfilled the obligations arising from the present Charter." The Court determined that this meant that denunciation becomes effective once the

251 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, paras. 100 to 110.

252 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 105.

transition period has elapsed, at which point the Charter ceases to apply, although certain obligations arising from it remain[253].

In this regard, the Court appreciated that the phrase "obligations arising from the present Charter" contained in Article 143 of the Charter is comprehensive, and its wording does not limit compliance to a specific type of obligation. Therefore, the Court had recourse to the means of interpretation of international treaties, as well as the travaux préparatoires of the OAS Charter to interpret this phrase and concluded that human rights obligations are part of the "obligations arising from" the OAS Charter pursuant to Article 143. Specifically, the Court interpreted that such obligations include those that arise from the perpetration of an internationally wrongful act and that were acquired under the mechanisms and procedures for the international protection of human rights of the inter-American system. They include both compliance with reparations ordered by the Inter-American Court under the pacta sunt servanda principle, as well as best efforts to comply with recommendations issued by the Inter-American Commission.

Second, the Court analyzed the effects of the denunciation and withdrawal from the OAS Charter on the international human rights obligations arising from this instrument. In this regard, the Court stressed that a State's denunciation of the OAS Charter and its withdrawal from the Organization, would leave those persons subject to the denouncing State's Jurisdiction entirely unprotected by the regional organs of international protection. On this point, the Court recalled that a denunciation of the American Convention cannot take effect immediately, so that the two-year transition period acquires special relevance so that the other OAS Member States, as collective guarantors of its efficacy in relation to the observance of human rights, have an opportunity to express any observations or objections deemed pertinent in a timely manner, using institutional channels, regarding denunciations that do not withstand scrutiny under the democratic principle and which undermine the inter-American public interest, so as to activate the collective guarantee[254].

In conclusion, the Court decided that, when a Member State of the Organization of American States denounces the Charter, its international human rights obligations stand as follows: (1) human rights obligations derived from the OAS Charter remain unaltered during the period of transition to full denunciation; (2) definitive denunciation of the OAS Charter produces no retroactive effects; (3) the duty to abide by obligations derived from decisions by the human rights protection bodies of the inter-American system remains in force until compliance is final; (4) the duty to abide by inter-American human rights treaties ratified and not denounced under their own procedures remains in effect; (5) customary norms, those derived from general principles of law and those pertaining to jus cogens continue to bind the State by virtue of general international law and, moreover, the duty to abide by the obligations inherent in the United Nations Charter remains in effect[255].

## • The notion of collective guarantee that underlies the inter-American system

The Court clarified that the notion of the "collective guarantee" underlies the entire inter-American system, particularly as the OAS Charter refers to the solidarity and good neighborliness among the States of the Americas. The Court has also considered that, in accordance with the collective guarantee mechanism underlying the American Convention, it is incumbent upon all States of the inter-American system to cooperate with each other in order to comply with their international obligations, both regional and universal[256].

253 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 107.

254 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 161.

255 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para 162.

256 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human

The collective guarantee translates into a general duty of protection required of States Parties to the American Convention and the OAS Charter, in order to ensure the effectiveness of those instruments, as a rule of an erga omnes partes nature. Thus, the Court emphasized that human rights standards, both Convention-based and those derived from the OAS Charter and the American Declaration, reflect shared values and common interests that are considered important and, therefore, benefit from collective application. In this regard, the Court has affirmed that "the duty of cooperation among States in the promotion and observance of human rights is a rule of an erga omnes nature, since it must be observed by all States, and is of a binding nature in international law." The Court also observed that, given the nature, object and purpose of human rights treaties, as well as the asymmetrical relationship between the individual and the State, the collective guarantee also ensures that persons under the Jurisdiction of the denouncing State are not deprived of a minimum threshold of protection of their human rights[257].

In its case law, the Court has referred to various types of collective guarantee mechanisms provided under the American Convention, which translate into provisions and specific mandates. As an expression of the notion of collective guarantee, the Court has considered that, under Article 27(3), the States Parties to the American Convention have an international obligation to immediately inform the other States Parties, through the Secretary General of the OAS, of the provisions of the Convention that have been suspended, of the reasons that gave rise to the suspension and the date set for the termination of the suspension. This obligation also "constitutes a safeguard to prevent abuse of the exceptional powers of the suspension of guarantees and allows other State Parties to determine whether the scope of this suspension is consistent with the provisions of the Convention"[258].

Similarly, the Court underscored that Article 65 of the Convention requires that the Inter-American Court indicate in its annual report to the OAS General Assembly the cases in which a State has not complied with its judgments, so that this body can ensure compliance with the Court's decisions. Thus, the notion of collective enforcement also plays an important role in the implementation of the international decisions of human rights bodies, such as the Inter-American Court[259].

Regarding denunciations of the American Convention and the OAS Charter, the Court emphasized that the transition period established in Articles 78 and 143, respectively, of those instruments, provides safeguards against sudden or untimely denunciations. That period is crucial for States to express any observations or objections deemed pertinent when such denunciations are based on any of the assumptions mentioned in paragraph 73, which do not withstand scrutiny in light of the democratic principle, undermine the inter-American public interest, and weaken the operation of the inter-American system for the protection of human rights[260].

Ultimately, the notion of collective guarantee is considered to be of direct interest to each OAS Member State, and to all the States as a whole, and is activated through the Organization's political organs. It mandates the implementation of various institutional and peaceful mechanisms for taking swift, collective action to address possible denunciations of the American Convention and/or of the OAS Charter in situations in which democratic stability, peace and security may

Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 163.

257 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 164.

258 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 166.

259 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 167.

260 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 168.

be affected and lead to human rights violations[261].

In this regard, as an initial or minimal measure to contain a government's impulse to extricate itself from its international human rights obligations, it is appropriate to examine, within the framework of the collective guarantee, the context and formal conditions in which the decision to denounce is taken at the domestic level and its correspondence with the established constitutional procedures. However, the Court stresses that, pursuant to Article 27 of the Vienna Convention, domestic provisions and procedures may not be used as a pretext or an obstacle to the fulfilment of human rights obligations previously acquired[262].

Consequently, that first level of formal analysis, which would no longer act as a general system of protection, must be complemented and reinforced through the collective guarantee and an assessment of the democratic nature of the decision to denounce the treaty, and the general conditions and context in which the matter was decided and adopted. This is associated with the good faith of the denunciation; in other words, it must reflect the principles of the States of the Americas which "require the political organization of these States on the basis of the effective exercise of representative democracy"[263].

Lastly, in relation to the effects and consequences on human rights obligations, the Court finds it pertinent to point out that the collective guarantee implies a duty by the States to act jointly and cooperate to protect the rights and freedoms which they have undertaken to uphold internationally through their membership of the regional Organization and, in particular to: (1) present in a timely manner their observations or objections regarding denunciations of the American Convention and/or of the OAS Charter that do not withstand scrutiny in light of democratic principle and that undermine the inter-American public interest; (2) ensure that the denouncing State does not consider itself disengaged from the OAS until it has complied with the human rights obligations acquired through the various protection mechanisms within the framework of their respective competencies and, in particular, those related to compliance with the reparations ordered by the Inter-American Court until conclusion of the proceedings; (3) cooperate with each other to put an end to impunity by investigating and prosecuting serious human rights violations; (4) grant international protection, in accordance with commitments arising from international human rights law, international humanitarian law and refugee law, by admitting potential asylum seekers to the territory, guaranteeing their right to seek and receive asylum, and respecting the principle of non-refoulement, among other rights, until a lasting solution is achieved, and (5) engage in bilateral and multilateral diplomatic efforts, and peacefully exercise their good offices so that those States that have withdrawn from the OAS may rejoin the regional system. All this without prejudice to universal or other types of forums or mechanisms that may prosper[264].

261 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 169.

262 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 170.

263 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 171.

264 The obligations in matters of human rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 172.

# Financial Management

# IX. Financial Management

## A. Income

There are four main sources of the Inter-American Court's income: (a) the OAS Regular Fund; (b) international cooperation projects; (c) voluntary contributions from Member States, and (d) other special income.

During the 2020 fiscal exercise, the Court received a total income of US$7,161,880.51, of which 5,163,697.50 (72.10%) was provided by the OAS Regular Fund.[265] Meanwhile, US$1,483,766.88 (20.72%) came from international cooperation projects, and US$514,416.13 (7.18%) corresponded to voluntary contributions from Member States.

The following table shows the income received by the Inter-American Court during 2020:

**INCOMES 2020**

| | |
|---|---|
| **OAS REGULAR FUND** | **5,163,697.50** |
| **MEMBERS STATES** (Voluntary Contributions) | **514,416.13** |
| Costa Rica | 105,609.11 |
| Mexico | 400,000.00 |
| Peru | 8,807.02 |
| **INTERNATIONAL COOPERATION** | **1, 525,018.49** |
| Spanish Agency for International Cooperation and Develoment | 79,005.00 |
| Norwegian Ministry of Foreign Affairs | 266,050.67 |
| European Comission | 197,321.17 |
| Deutsche Gesellschaft Für Internationale Zusammenarbeit (GIZ), GmbH, German Federal Ministry for Economic Cooperation and Develoment (BMZ) | 54,449.56 |
| Agencia Suiza para el Desarrollo y la Cooperación (COSUDE) | 250,000.00 |
| Swiss Agency for Development and Cooperation (COSUDE) | 589,368.96 |
| Heinrich Böll Stiftung Foundation (BMZ Germany Cooperation) | 10,700.00 |
| Federal Judiciary Institute of Mexico | 23,665.00 |
| Office of the Prosecutor General of the Republic of Ecuador | 13,206.52 |
| Konrad Adenauer Foundation | 41 ,251.61 |
| **TOTAL** | **7,203,132.12** |

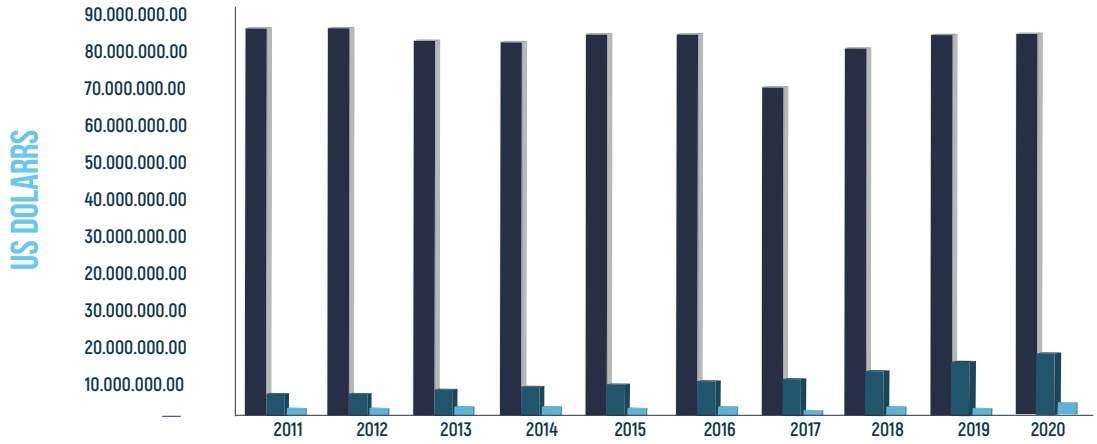
265 Of the funds allocated by the OAS General Assembly for the 2020 Budget, the Inter-American Court of Human Rights received the sum of US$5,163,697.50 through the OAS General Secretariat; this corresponds to 97.5% of the amount established in the budget. Accordingly, the OAS retained 2.5% of the budget approved for 2020.

## 1. Income – OAS Regular FundA

During the forty-ninth regular session of the OAS General Assembly held in Medellín, Colombia, on June 27, 2019, the Program-Budget of the Organization of American States for the 2020 financial exercise was adopted in Resolution No. AG/RES. 2940 (XLIX- O/19). The Program-Budget allocated the sum of US$5,296,100.00 to the Inter-American Court.

The following table provides a historical comparison between the total budget of the OAS and the amounts allocated to the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights over the last ten years.

**COMPARATIVE BUDGETARY ALLOCATION GIVEN BY THE OAS TO THE IDH COURT 2011- 2020**




| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|
| OAS | 85.349 | 85.350 | 83.870.5 | 82.978.1 | 84.324.1 | 84.324 | 73.500 | 81.575.0 | 82.700 | 82.700 |
| IACHR | 4.646.7 | 4.779.7 | 5.280.20 | 5.345.30 | 5.427.90 | 5.634.3 | 5.663.0 | 7.505.20 | 9.367.40 | 10.627.9 |
| I / A Court HR | 2.058.1 | 2.124.2 | 2.161.00 | 2.661.00 | 2.661.10 | 2.756.2 | 2.756.2 | 3.665.70 | 4.575.20 | 5.296.1 |

*The amount approved by the General Assembly ($5,292,100) the amount received by the Court was $5,163,697.50, due to a 2.5% cut applied by the OAS.

## 2. Income from voluntary contributions from OAS Member State

During 2020, the Inter-American Court received the following voluntary contributions from three OAS Member States amounting to US$514,416.13, which represented 7.18% of the Court's total income:

| MEMBER STATES (VOLUNTARY CONTRIBUTIONS) | US$514,416.13 |
|---|---|
| Costa Rica | 105,609.11 |
| Mexico | 400,000.00 |
| Peru | 8,807.02 |

## 3. Income from international cooperation projects

The income from international cooperation for the 2020 period was US$1,483,766.88 (20.72% of the total income for the year). This sum consisted of the following contributions:

**Spanish Agency for International Cooperation and Development (AECID): US$79,005.00**

Proyect "Enhancing key protection standards of the Inter-American Court of Human Rights concerning access to justice for persons in a vulnerable situation and its capacity to disseminate information to users of the inter-American system for the protection of human rights." The project was implemented for one year from August 28, 2019, to August 28, 2020, with a budget of US$263,350.00.

In October 2019, the Court received from AECID, through the OAS General Secretariat, the sum of US$184,345.00, corresponding to 70% of the total, as an advance to initiate activities. In May 2020, the Court received the final 30% of the contribution to the project (US$79,005.00).

At the end of September 2020, the Court presented the final technical and financial reports, which were approved by the Agency, thereby concluding the project.

In November 2020, the Court submitted to AECID, through the OAS General Secretariat, a proposal for the project: "Enhancing the protection standards of the Inter-American Court of Human Rights concerning access to justice for persons and groups in a vulnerable situation and the dissemination of the Court's activities," which is being examined by the Agency. It is anticipated that this project will be executed during 2021, with a duration of one year.

**Norwegian Ministry of Foreign Affairs: US$266,050.67**

The project: "Strengthening the judicial capacities of the Inter-American Court of Human Rights and the dissemination of its work 2017-2019" was signed between the Ministry of Foreign Affairs and the Inter-American Court, with funding up to NOK12,000,000.00, equivalent to approximately US$1,463,400.00 for the years 2017, 2018, 2019. The final contribution to the project, received in July 2019, amounted to US$233,691.77.

On November 12, 2019, the Norwegian Ministry of Foreign Affairs and the Inter-American Court signed Amendment No 1 to Project CAM 2665-16/0001, extending the date of expiry, which had been established at December 31, 2019, to June 2020, and providing additional funding of NOK 3,023,000.00, equal to approximately US$351,000.00. However, the amount received was US$328,106.11 owing to fluctuations in the exchange rate. The purpose and objectives of the project remained the same, except for additional support for the section on the Court's information technology.

At the close of the project, the Budget had been under-executed by US$14,302.34, and this sum was returned to the Ministry by bank transfer in October 2020.

In September 2020, the Norwegian Ministry of Foreign Affairs and the Inter-American Court signed a project on "Enhancing the jurisdictional and communication capacities of the Inter-American Court of Human Rights, 2020–2024" with funding of up to NOK 20,000,000.00, equal to approximately US$1,995,740.00, and a duration of four years from July 2020 to June 2024.

An initial contribution to this new project of US$266,050.67 was received in September 2020.

**European Commission: US$197,321.17**

The European Commission and the Inter-American Court of Human Rights signed an agreement to implement the project: "Improvement to the capacities of the Inter American Court of Human Rights to administer prompt international justice to victims of human rights violations, especially those belonging to vulnerable and traditionally discriminated groups, and to disseminate its jurisprudence and work in a user-friendly manner that facilitates is observance and use among national actors," with funding of 750,000.00 euros for project execution over 24 months

starting in May 2019.

In May 2019, the Inter-American Court of Human Rights received the first contribution to the project amounting to 392,658.40 euros.

In August 2020, the second contribution to the project, amounting to 168,505.57 euros, equivalent to US$197,321.17 was received.

**Deutsche Gesellschaft Für Internationale Zusammenarbeit (GIZ) GmbH under the Program on Regional International Law and Access to Justice in Latin America II (DIRAjus II)), financed by the Federal Ministry of Economic Cooperation and Development (BMZ): US$54,449.56**

Mandated by the Federal Ministry of Economic Cooperation and Development (BMZ) of the German Federal Republic, the German cooperation agency Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH has provided support to the Inter-American Court of Human Rights since 2013 when the first Memorandum of Understanding was signed. On November 15, 2017, the two institutions signed a second Memorandum of Understanding on joint undertakings under the program "Regional international law and access to justice in Latin America (DIRAJus II)." The purpose of this agreement is "to continue supporting the strengthening of access to justice." GIZ agreed to provide the Court with 250,000.00 euros, to be contributed under specific contracts between 2017 and 2020.

Under the second Memorandum of Understanding for joint undertakings mentioned above, on February 17, 2020, a fifth funding contract was signed in order to reinforce the Inter-American Court's THEMIS database and its informatic and pedagogic tools. This contract was executed for the sum of US$31,402.06, beginning on February 20 and ending on April 30, 2020.

On May 11, 2020, a sixth funding contract was signed in order to reinforce the work capacity, and the security of IT tools and information resources of the Inter-American Court in the context of the COVID-19 pandemic. This contract was executed for the sum of US$23,047.50 and all the planned activities were completed between May 13 and 31, 2020.

On June 29, 2020, the two institutions signed a third "Memorandum of Understanding on joint undertakings" under the program "Regional international law and access to justice in Latin America (DIRAJus II)." The purpose of this agreement is "to continue supporting the strengthening of inter-American justice and regional jurisprudential dialogue with a specific focus on the ESCER and access to justice." GIZ agreed to provide the Court with US$160,000, under specific contracts during 2020, 2021 and 2022.

**Swiss Agency for Development and Cooperation (COSUDE): US$250,000.00**

Under the Program "Strengthening governance and human rights with emphasis on vulnerable populations in the countries of Central America," a second memorandum of understanding was signed in October 2019 for collaboration between the two institutions under the program "Strengthening the protection of human rights and the rule of law through jurisprudential dialogue, optimization of capacities, and compliance with the judgments of the Inter-American Court of Human Rights in El Salvador, Guatemala and Honduras."

The Swiss Agency for Development and Cooperation (COSUDE) undertook to make a contribution of US$750,000.00 to the Court, to be distributed over the years from 2019-2022. In November 2019, the Court received US$150,000.00 corresponding to the first disbursement for the activities during the first year from October 2019 to September 2020.

In September 2020, the Court received the second disbursement of US$250,000.00, as set out in the memorandum of understanding.

**Sweden's Government Agency for Development Cooperation: US$589,368.96**

In November 2020, Sweden's Government Agency for Development Cooperation (SIDA), represented by the Swedish Embassy in Guatemala, and the Inter-American Court of Human Rights signed an agreement on "Institutional strengthening of the Inter-American Court of Human Rights to optimize its capacities," with funding of up to SEK 5,000,000.00, equivalent to approximately US$589,000.00 over the project execution period from December 1, 2020, to December 31, 2021. The purpose of the project is to contribute to the protection of human rights in the region by institutional reinforcement of the Inter-American Court of Human Rights.

In December 2020, the Court received a contribution towards the project of US$589,368.96. As can be seen, as a result of fluctuations in the exchange rate, the Court received US$89,368.96 more than agreed in the contract. A note was sent requesting authorization to use the exchange differential for project activities.

**Heinrich Böll Stiftung Foundation: US$10,700.00**

The German Federal Ministry of Economic Cooperation and Development provided support to the Inter-American Court through the cooperation agreement signed between the Heinrich Böll Stiftung Foundation and the Court for the project entitled "Human rights training during the Covid-19 pandemic," to be carried out between August and October 2020. The Budget for the project was established at US$11,000.00.

In July 2020, the first tranche was received representing 70% of the amount: US$7,700.00.

Prior to the conclusion of activities, the parties signed an agreement to extend the project until November 2020, increasing the amount of the contribution by US$5,000, so that the new budget for the project amounted to US$16,000.00.

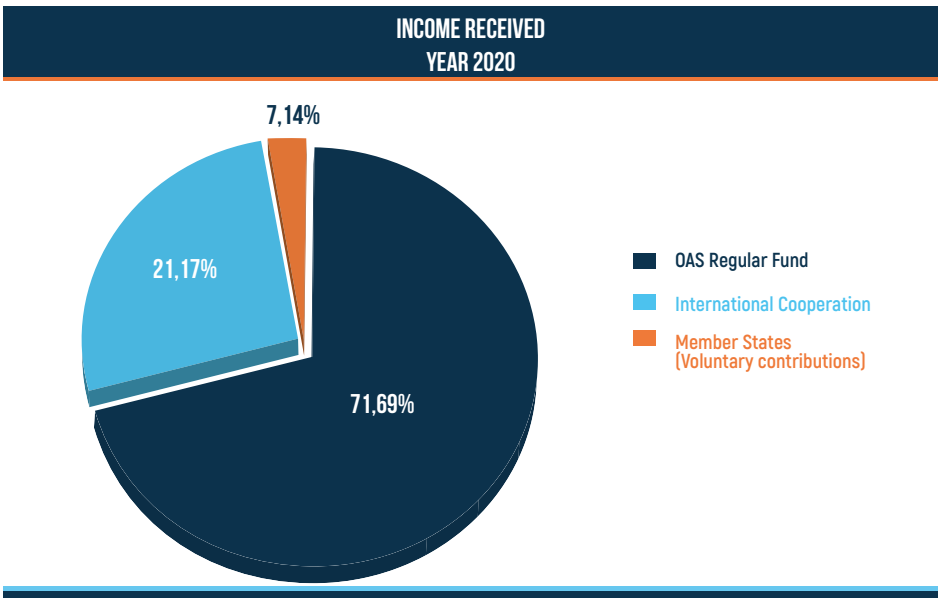
In December 2020, the Court presented the narrative and financial reports to the Heinrich Böll Stiftung Foundation in San Salvador, El Salvador, for approval.

As reported in the 2019 Annual Report with regard to the project financed by this Foundation entitled "Training to reinforce capacities in relation to the inter-American system of human rights in academic circles in Guatemala, El Salvador and Honduras," implemented between June and September 2019, with a budget of US$10,000.00, the Court was awaiting the final payment and reimbursement of the pending balance (US$3,000.00) in order to close this project, and this was received on February 11, 2020.

**Konrad Adenauer Foundation**

The Court received US$41,251.61 from the Konrad Adenauer Foundation for the translation into English of several judgments.

The following table shows how the income of the Inter-American Court of Human Rights was distributed over the 2020 fiscal exercise (in percentages):




**Institute of the Federal Judicature of Mexico: US$23,665.00**

On June 20, 2019, the Inter-American Court of Human Rights and the Institute of the Federal Judicature of Mexico, signed a framework cooperation agreement under which the two institutions undertook to carry out different activities aimed at the promotion of human rights. To give content to this Framework Agreement, the two institutions agreed to implement training activities and undertook to strengthen the jurisprudential dialogue between the Inter-American Court of Human Rights and Mexico's federal judges and the officials involved in the administration of justice and to optimize local capacities for the application of international human rights law and the case law of the Inter-American Court of Human Rights by the dissemination, exchange and updating of knowledge on the principal inter-American human rights standards.

To achieve these objectives, on August 3, 2020, the Inter-American Court of Human Rights and the Institute of the Federal Judicature of Mexico / the Mexican Federal Judiciary, signed a second Specific Cooperation Agreement for Human Rights Training to be implemented from August 3 to December 31, 2020, with funding of 654,866.37 Mexican pesos, to be paid in United States dollars, at the exchange rate in force when the transfer was made by the Institute of the Federal Judicature, representing approximately US$21,911.95 – finally, the Court received US$23,665. The project was implemented smoothly and the budget was fully executed.

**Office of the Prosecutor General of the Republic of Ecuador: US$13,206.52**

On October 23, 2020, the Office of the Prosecutor General of the Republic of Ecuador and the Inter-American Court of Human Rights signed a contract for training to provide upgrading on inter-American procedural law and the case law of the Inter-American Court of Human Rights for employees of the Prosecutor General's Office and other competent officials of the Ecuadorian State.

It was established that the contract would be implemented within 60 days of the date of signature, with a contribution amounting to US$13,226.52.

At the end of December 2020, the Court received two transfers from the Office of the Prosecutor General of the Republic of Ecuador, the first for US$3,957.96 and the second for US$9,248.56. The project was implemented

smoothly and the budget was fully executed.

**Technical and institutional support to the Court's Secretariat**

The Federal Ministry of Economic Cooperation and Development (BMZ) of the German Federal Republic, through the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) continued providing technical assistance to the Court through the DIRAJus project. This includes the work of a German lawyer who conducts research on access to justice and is developing an important tool known as the Digesto, which is described in point XI of this report on Dissemination of the Court's Jurisprudence.

The University of Notre Dame provided technical assistance during 2020, by partial financial support for a lawyer working in the Legal Area of the Secretariat for one year.

## B. Response of the States to the financial situation

The Court greatly appreciates the consensus achieved by the 2017 General Assembly, ratified in 2018 and 2019, that resulted in the historic and unprecedented decision to almost double to Court's budget. In particular, the Court acknowledges the countries that co-sponsored and supported the resolutions that made this measure possible, and reveals a significant commitment to the institutional framework of the Inter-American Court. This represented an important step forward towards reinforcing the independence and autonomy of the Inter-American Court in order to improve access to justice for the victims of human rights violations. Also, the Court must acknowledge the crucial support of civil society and the regional community that, from the outset, has mobilized the political and institutional will to strengthen the inter-American system for the protection of human rights.

## C. Regular Fund Budget approved for 2021

During its fiftieth General Assembly held virtually in Washington D.C., United States of America, on October 20, 2020, the OAS adopted the 2021 budget for the Inter-American Court of Human Rights amounting to US$5,024,000.00.[266] However, it should be pointed out that this sum does not correspond to twice the 2017 budget, as decided by the OAS General Assembly in 2017. In this regard, it should be recalled that, during the General Assembly, held in Cancun, Mexico, in June 2017, the States decided, by Resolution AG/RES. 2908 (XLVII-O/17)[267], that the budget granted to the Inter-American Court of Human Rights should be doubled over a three-year period. In other words, by 2020, the amount allocated by the OAS should have risen to US$5,512,400.00.

## D. Regular Fund Budget approved for 2021

Durante el año 2020 se practicó una auditoría externa a los estados financieros de la Secretaría de la Corte During 2020, an external audit was conducted of the financial statements Secretariat of the Inter-American Court for the 2019 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 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 19, 2020, report of Venegas y Colegiados, members of Nexia International, the Court's financial statements adequately reflected the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2019, which are in keeping with generally

266 Organization of American States. General Assembly (2020). Declarations and resolutions (regular session). Program-budget of the Organization for 2020" (adopted at the plenary session held on October 20, 2020). AG/RES. 2957 (L-O/20). Recovered from: http://www.oas.org/en/50ga/.

267 The General Assembly resolved "To request the Committee on Administrative ad Budgetary Affairs, considering the existing resources, to double the amount of Regular Fund resources earmarked for the organs of the inter-American human rights system: the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, over a three-year period." Promotion and protection of human rights, A/RES.2908 (XLVII-O-17) Item XVI. *"Financing of the organs of the inter-American human rights system out of the program-budget of the Organization for 2018."*

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 and each report is submitted to the corresponding cooperation agency in keeping with each project contract.

# Mechanisms to promote access to Inter-American justice: Victims' Legal Assistance Fund (VLAF) and Inter-American Defender (ID)

# X. Mechanisms to promote access to Inter-American justice: Victims' Legal Assistance Fund (VLAF) and Inter-American Defender (ID)

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 (VLAF) and the Inter-American Defender (ID).

## A. Victims' Legal Assistance Fund (VLAF)

### 1. Procedure

The Court's Rules for the Operation of the Victims' Legal Assistance Fund (hereinafter, "the Fund") were issued on February 4, 2010, and entered into force on June 1 that year. 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.

When a case has been submitted to the Court, any victim who does not have the necessary financial resources to cover the costs arising from the 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 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.[268] 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.[269]

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.

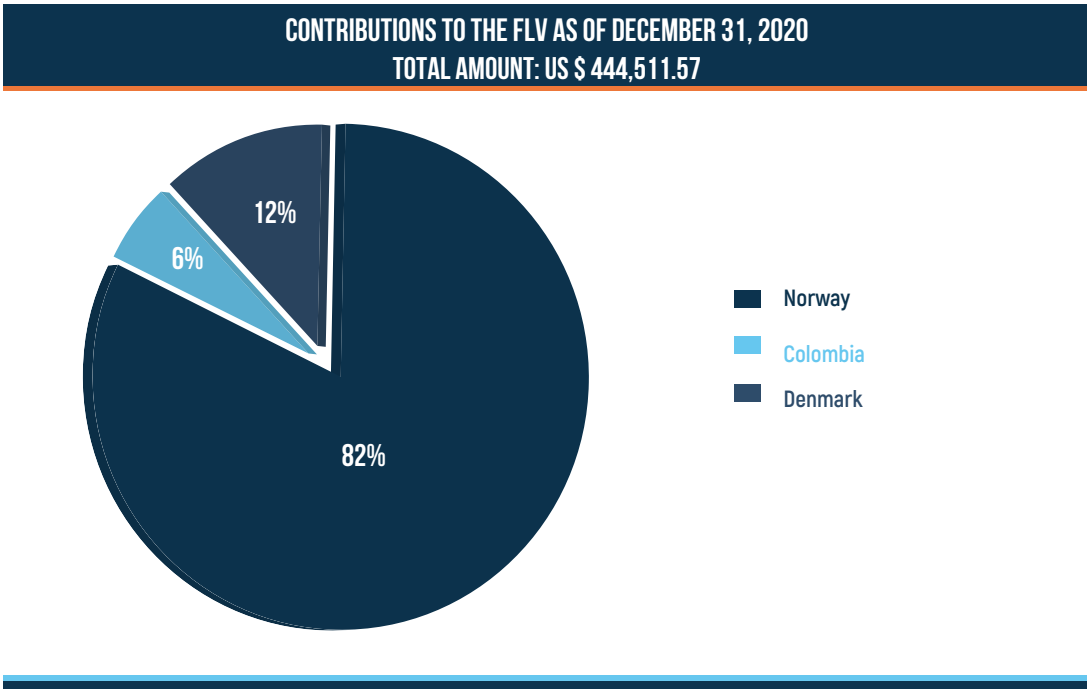
Initially, the funds only came from a cooperation project signed with Norway for the period 2010-2012, which provided US$210,000.00, and from the donation of US$25,000.00 to the Fund by Colombia. During 2012, based on new cooperation agreements signed with Norway and Denmark, the Court obtained commitments for additional funding for 2013 to 2015 of US$65,518.32 and US$55,072.46, respectively.

268 Inter-American Court of Human Rights, Rules for the Operation of the Victims' Legal Assistance Fund, article 2.
269 *Ibid.*, article 3.

In 2016, the Court received US$15,000.00 from Norway, in 2017, US$24,616.07, in 2018, US$24,764.92 and finally, for execution of the 2019 budget a contribution of US$24,539.80.
Based on the foregoing, at December 2020, total contributions to the fund amounted to US$444,511.57.

The list of donor countries to date is as follows:

| CONTRIBUTIONS AND 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 |
| Norway | 2017 | 24,616.07 |
| Norway | 2018 | 24,764.92 |
| Norway | 2019 | 24,539.80 |
| | **Subtotal** | **US $444,511.57** |



## 3. Application of the Victims' Legal Assistance Fund

### 3.1 Expenses approved in 2020

In 2020, the President of the Inter-American Court of Human Rights issued orders approving access to the Victims' Legal Assistance Fund in the following cases:

| CASES APPROVED FOR ACCESS TO THE FUND IN 2020 | | |
|---|---|---|
| **Case** | **Date Order** | **Details of expenditure** |
| Acosta Martínez v. Argentina | February 10, 2020 | To cover the travel and per diem costs necessary for the presumed victim and one of the victim's legal representatives to appear before the Court during the public hearing to be held in this case. Also, the reasonable expenses of preparing and sending the affidavit with the presumed victim's statement. |
| Fernández Prieto and Tumbeiro v. Argentina | February 5, 2020 | To cover the travel and per diem costs necessary for the appearance of two persons at the public hearing. Also, the reasonable expenses of preparing and sending the affidavits with the statements of two persons. |
| Flores Bedregal *et al*. v.Bolivia | February 13, 2020 | To cover the costs arising from the appearance of a deponent and a legal representative at the public hearing, as well the preparation of affidavits with two statements and the opinions of three expert witnesses. |
| Mota Abarullo v. Venezuela | June 30, 2020 | To cover the reasonable costs of the preparation and sending of the affidavits of three deponents named by the representatives, provided that these are reasonable. |
| Bedoya Lima *et al.* v. Colombia | July 8, 2020 | To cover the costs of the presentation of a maximum of five statements, either at the hearing or by affidavit. |
| Casa Nina v. Peru | August 3, 2020 | To cover the reasonable costs of the preparation and sending of an affidavit with the presumed victim's statement |
| Cordero Bernal v. Peru | September 15, 2020 | To cover the reasonable and necessary costs that the defense may incur. |
| Guachalá Chimbó *et al*. v.Ecuador | October 9, 2020 | To cover the reasonable costs of the preparation and sending of three affidavits. |
| Guerrero, Molina *et al*. v. Venezuela | October 13, 2020 | To cover the reasonable costs of the preparation and sending of two affidavits as indicated by the representatives. |
| Barbosa de Souza *et al.* v. Brazil | November 27, 2020 | To cover the reasonable costs of the preparation and sending of four affidavits as indicated by the representatives. |

| | | |
|---|---|---|
| Ríos Avalos *et al.* v. Paraguay | December 11, 2020 | To cover the reasonable costs of the preparation and sending of four affidavits as indicated by the representatives. |
| Massacre of the village of Los Josefinos v. Guatemala | December 15, 202 | To cover the expenses of the statements of the presumed victims during a virtual public hearing. These expenses include their transfer to the place with the necessary technical equipment and assistance for them to provide their testimony virtually, as well as any relevant psychosocial assistance. Also, the reasonable expenses of preparing and sending the affidavits of three deponents offered by the representative. |
| Lemoth Morris *et al.* (Miskito Divers) v. Honduras | December 17, 2020 | To cover the expenses of preparing the affidavits of the presumed victims and of the expert witnesses, provided those expenses are reasonable. |
| Members and Activists of the Patriotic Union v. Colombia | December 18, 2020 | To cover the reasonable expenses of preparing the affidavits of four persons. |
| Cuya Lavy *et al.* v. Peru | January 28, 2021 | To cover the reasonable expenses of the presentation of a witness statement and the opinions of two expert witnesses. |

3.2 VLAF expenses in 2020

During 2020, The Secretariat of the Inter-American Court made payments to presumed victims, expert witnesses, witnesses, representatives, and to prepare affidavits and to reimburse diverse expense in 4 cases. Details of the disbursements appear in the following table:

| **VIctims' Legal Assistance Fund Disbursements in 2020** | | |
|---|---|---|
| **Total** | **Cases** | **Amount** |
| **VICTIMS' LEGAL ASSISTANCE FUND** | | |
| 1 | Azaña *et al.* v. Nicaragua | 3,188.10 |
| 2 | Spoltore v. Argentina | 4,340.58 |
| 3 | Acosta Martínez v. Argentina | 2,718.75 |
| 4 | Fernández Prieto *et al.* v. Argentina | 3,251.84 |
| | **TOTAL:** | **13,499.27** |
| **FINANCIAL EXPENSES** | | |
| Financial expenses (audit and exchange rate fluctuations) | | 1,314.29 |
| | **TOTAL** | **1,314.29** |
| | **TOTAL DISBURSEMENTS 2020** | **US $14,813.56** |

### 3.3 Expenses approved and respective reimbursement from 2010 to 2020

From 2010 to 2020, access to the Victims' Legal Assistance Fund of the Court has been granted in 89 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. Regarding this total of 89 cases, the records show that:

- In 59 cases, the respective States have reimbursed the Fund.
- In 2 cases the Court did not order the State to reimburse the Fund, because it was not found internationally responsible in the judgment.
- In 28 cases reimbursement of the Fund remains pending. However, of these 28 cases, in four of them the judgment or order requiring the State to make the reimbursement has not yet been issued.

| Victims' Legal Assistance Fund<br>Reimbursements made to the Fund / Accumulated to December 2020 | | | | |
|---|---|---|---|---|
| | **Caso** | **Estado** | **Reintegro (en dólares)** | **Intereses (en dólares)** |
| 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 | Furlan and family | Argentina | 13,547.87 | 4,213.83 |
| 5 | Torres Millacura *et al.* | Argentina | 10,043.02 | 4,286.03 |
| 6 | Argüelles *et al.* | Argentina | 7,244.95 | 4,170.64 |
| 7 | Pacheco Tineo Family | Bolivia | 9,564.63 | 0.00 |
| 8 | I.V. | Bolivia | 1,623.21 | 0.00 |
| 9 | Favela Nova Brasilia | Brazsil | 7,367.51 | 156.29 |
| 10 | Norín Catrimán et al. (Leaders, Members and Activist of the Mapuche Indigenous People) | Chile | 7,652.88 | 0.00 |
| 11 | Poblete Vilches *et al.* | Chile | 10,939.93 | 0.00 |
| 12 | Ángel Alberto Duque | Colombia | 2,509.34 | 1,432.96 |
| 13 | Isaza Uribe *et al.* | Colombia | 1,172.70 | 0.00 |
| 14 | Villamizar Durán *et al.* | Colombia | 6,404.37 | 0.00 |
| 15 | Vereda La Esperanza | Colombia | 2,892.94 | 0.00 |
| 16 | Yarce *et al.* | Colombia | 4,841.06 | 4,099.64 |
| 17 | Manfred Amrhein *et al.* | Costa Rica | 5,856.91 | 0.00 |
| 18 | Kichwa Indigenous People of Sarayaku | Ecuador | 6,344.62 | 0.00 |
| 19 | Suárez Peralta | Ecuador | 1,436.00 | 0.00 |
| 20 | Vásquez Durand | Ecuador | 1,657.35 | 31.34 |

| | | | | |
|---|---|---|---|---|
| 21 | Montesinos Mejía | Ecuador | 159.00 | 0.00 |
| 22 | Flor Freire | Ecuador | 4,771.25 | 412.08 |
| 23 | Contreras *et al.* | El Salvador | 4,131.51 | 0.00 |
| 24 | Massacres of El Mozote and neighboring places | El Salvador | 6,034.36 | 0.00 |
| 25 | Rochac Hérnandez *et al.* | El Salvador | 4,134.29 | 0.00 |
| 26 | Ruano Torres *et al.* | El Salvador | 4,555.62 | 0.00 |
| 27 | Véliz Franco *et al.* | Guatemala | 2,117.99 | 0.00 |
| 28 | Chinchilla Sandoval *et al.* | Guatemala | 993.35 | 0.00 |
| 29 | Ramírez Escobar *et al.* | Guatemala | 2,082.79 | 0.00 |
| 30 | Cuscul Pivaral *et al.* | Guatemala | 2,159.36 | 0.00 |
| 31 | Villaseñor Velarde *et al.* | Guatemala | 4,671.10 | 0.00 |
| 32 | Triunfo de la Cruz Garifuna Community | Honduras | 1,662.97 | 0.00 |
| 33 | Punta Piedra Garifuna Community | Honduras | 8,528.06 | 0.00 |
| 34 | Alvarado Espinoza *et al.* | Mexico | 5,444.40 | 182.32 |
| 35 | Women Victims of Sexual Torture in Atenco | Mexico | 4,199.09 | 0.00 |
| 36 | Kuna Indigenous People of Madungandí and Emberá de Bayano and their members | Panama | 4,670.21 | 0.00 |
| 37 | Osorio Rivera and family members | Peru | 3,306.86 | 0.00 |
| 38 | J. | Peru | 3,683.52 | 0.00 |
| 39 | Miguel Castro Castro Prison | Peru | 2,756.29 | 0.00 |
| 40 | Espinoza Gonzáles | Peru | 1,972.59 | 0.00 |
| 41 | Cruz Sánchez *et al.* | Peru | 1,685.36 | 0.00 |
| 42 | Campesino Community of Santa Bárbara | Peru | 3,457.40 | 0.00 |
| 43 | Canales Huapaya *et al.* | Peru | 15,655.09 | 0.00 |
| 44 | Quispialaya Vilcapoma | Peru | 1,673.00 | 0.00 |

| | | | | |
|---|---|---|---|---|
| 45 | Tenorio Roca *et al.* | Peru | 2,133.69 | 0.00 |
| 46 | Tarazona Arrieta *et al.* | Peru | 2,030.89 | 0.00 |
| 47 | Pollo Rivera *et al.* | Peru | 4,330.76 | 15.40 |
| 48 | Zegarra Marín | Peru | 8,523.10 | 0.06 |
| 49 | Lagos del Campo | Peru | 1,336.71 | 23.70 |
| 50 | Dismissed Employees of PetroPeru *et al.* | Peru | 3,762.54 | 18.01 |
| 51 | Terrones Silva *et al.* | Peru | 5,095.99 | 0.12 |
| 52 | Munárriz Escobar *et al.* | Peru | 1,100.76 | 0.72 |
| 53 | Muelle Flores | Peru | 2,334.04 | 0.00 |
| 54 | Rojas Marín *et al.* | Peru | 869.23 | 0.00 |
| 55 | Rosadio Villavicencio | Peru | 2,269.24 | 0.00 |
| | Interest paid by the State of Peru | Peru | 0.00 | 197.66 |
| 56 | Barrios Family | Venezuela | 3,232.16 | 0.00 |
| 57 | Uzcátegui *et al.* | Venezuela | 4,833.12 | 0.00 |
| 58 | Landaeta Mejías *et al.* | Venezuela | 2,725.17 | 0.00 |
| 59 | Family Barrios (Monitoring Compliance) | Venezuela | 1,326.33 | 0.00 |
| **SUBTOTAL $ 261,487.83** | | | | **$ 25,282.48** |
| **Total Recovered (Disbursements and Interest)** | | | | **US$286,770.31** |

The following table gives details of the 28 cases where reimbursement of the Fund by the States remains pending:

| Victims' Legal Assistance Fund<br>Expenses pending reimbursement, by case and by State, at December 31, 2020 | | | | |
|---|---|---|---|---|
| **Total** | **Number by State** | **Case** | **Amount** | **Date on which payment ordered** |
| 1 | 1 | Furlan and family | 4,025.58 | November 4, 2016 |
| 2 | 2 | Jenkins | 6,174.66 | November 26, 2019 |
| 3 | 3 | López *et. al.* | 3,277.62 | November 25, 2019 |
| 4 | 4 | Gorigoitía | 987.36 | September 2, 2019 |
| 5 | 5 | *Torres Millacura | 7,969.08 | July 21, 2020 |
| 6 | 6 | Spoltore v. Argentina | 4,340.58 | June 9, 2020 |
| 7 | 7 | *Acosta Martínez v. Argentina | 2,718.75 | August 31, 2020 |
| 8 | 8 | *Fernández Prieto *et. al.* v. Argentina | 3,251.84 | September 1, 2020 |
| | | **TOTAL** | **32,745.47** | |
| | | **BARBADOS** | | |
| 9 | 1 | Dacosta Cadogan y Boyce*et. al.* | 1,999.60 | November 14, 2016 |

| | | | | |
|---|---|---|---|---|
| | | **TOTAL** | **1,999.60** | |
| | | **BRASIL** | | |
| 10 | 1 | Vladimir Herzog *et. al.* | 4,260.95 | March 15, 2018 |
| | | **TOTAL** | **4,260.95** | |
| | | **COLOMBIA** | | |
| 11 | 1 | Matter of the Peace Community of San José de Apartadó | 1,116.46 | No order on monitoring compliance has been issued to date as a result of the monitoring hearing on November 17, 2017, so the obligation to reimburse has not been determined. |
| | | **TOTAL** | **1,116.46** | |
| | | **ECUADOR** | | |
| 12 | 1 | Gonzales Lluy *et. al.* | 4,649.54 | September 1, 2015 |
| | | **TOTAL** | **4,649.54** | |
| | | **GUATEMALA** | | |
| 13 | 1 | Rodríguez Revolorio *et. al.* | 4,402.73 | October 14, 2019 |
| 14 | 2 | Valenzuela Ávila | 1,620.53 | October 11, 2019 |
| 15 | 3 | Ruíz Fuentes | 1,943.20 | October 10, 2019 |
| 16 | 4 | Martínez Coronado | 280.00 | May 10, 2019 |
| 17 | 5 | Girón *et. al.* | 1,271.54 | October 15, 2019 |
| | | **TOTAL** | **9,518.00** | |
| | | **NICARAGUA** | | |
| 18 | 1 | Acosta *et. al.* | 2,722.99 | March 25, 2017 |
| 19 | 2 | V.R.P. y V.P.C. | 13,862.51 | March 8, 2018 |
| 20 | 3 | Azaña *et. al.* v. Nicaragua | 3,188.10 | June 3, 2020 |
| | | **TOTAL** | **19,773.60** | |
| | | **PARAGUAY** | | |
| 21 | 1 | Noguera y otros | 1,994.88 | March 9, 2020 |
| | | **TOTAL** | **1,994.88** | |
| | | **DOMINICAN REPUBLIC** | | |
| 22 | 1 | González Medina | 2,219.48 | February 27, 2012 |
| 23 | 2 | Nadege Dorzema *et. al.* | 5,972.21 | October 24, 2012 |
| 24 | 3 | Expelled Dominicans and Haitians | 5,661.75 | August 28, 2014 |
| | | **TOTAL** | **13,853.44** | |
| | | **VENEZUELA** | | |
| 25 | 1 | Ortiz Hernández *et. al.* | 11,604.03 | August 22, 2017 |
| 26 | 2 | López Soto *et. al.* | 7,310.33 | September 26, 2018 |
| 27 | 3 | Álvarez Ramos | 4,805.40 | August 30, 2019 |
| 28 | 4 | Díaz Loreto *et. al.* | 3,476.97 | November 19, 2019 |

| | |
|---|---|
| **TOTAL** | **27,196.73** |
| **TOTAL** | **US$117,108.67** |

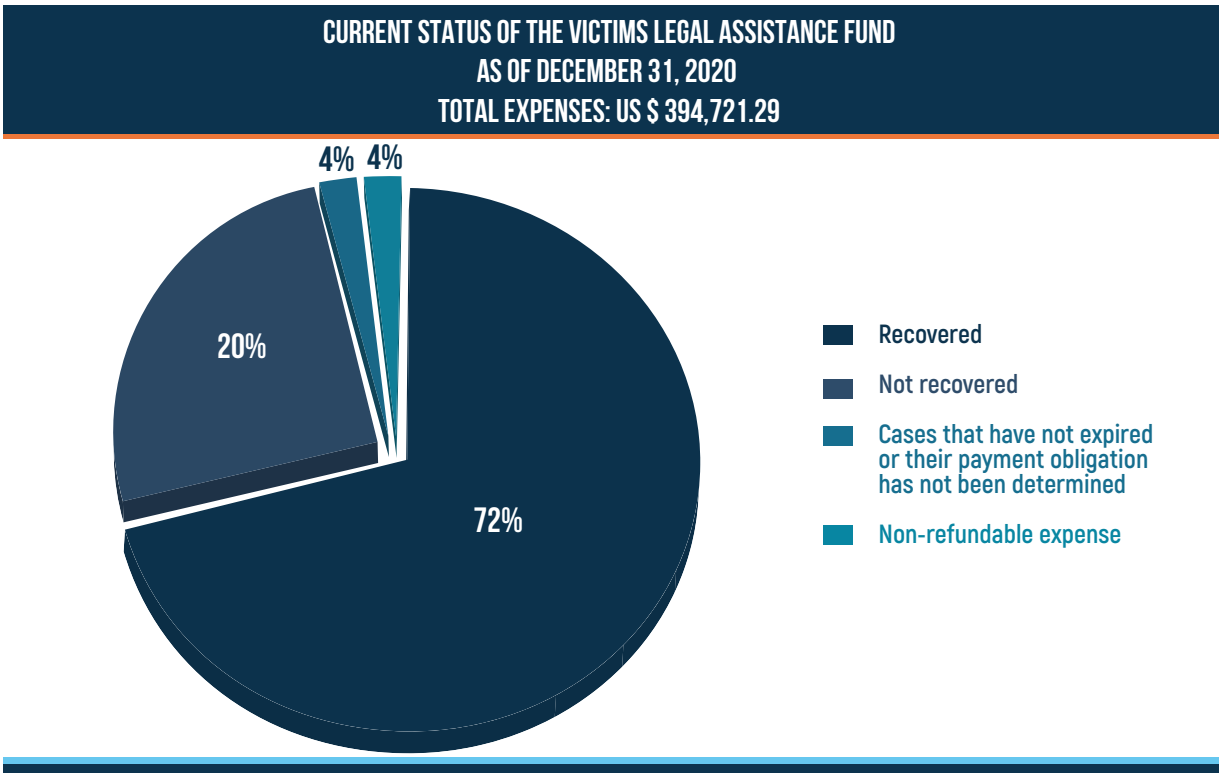
* Cases in which the time fame granted in the judgment to make the payment has not yet expired.

**BALANCES PENDING REIMBURSEMENT TO THE FUND VICTIMS**
**AS OF DECEMBER 31, 2020**
**US $ DOLLARS**


Lastly, the table below shows details of the expenses where the State is not obliged to reimburse the Fund, pursuant to the Court's judgment:

| **Victims' Legal Assistance Fund<br>Disbursements where the State is not required to reimburse the Fund** | | | |
|---|---|---|---|
| **Caso** | **Caso** | **Reimbursement** | **Details** |
| 1 | Torres *et al.* v. Argentina | 2,214.03 | Not obliged to reimburse (corresponds to air fare, per diem and terminal expenses for and expert witness ex officlo. |
| 2 | Castillo González *et al.* v. Venezuela | 2,956.95 | Not obliged to reimburse the Fund. |
| 3 | Miguel Castro Castro Prison v. Peru | 1,445.15 | (Not obliged to reimburse reimbursereimburreimburse (air fare, per diem and terminal expenses for a common intervener). |
| 4 | Arrom Suhurt *et al.* v. Paraguay | 1,360.25 | Not obliged to reimburse the Fund |
| **TOTAL DISBURSEMENTS US$7,976.38** | | | |

The table below presents the actual situation of the Victims' Legal Assistance Fund, as revealed by the preceding tables, according to their headings, namely: Reimbursements made to the Fund / Accumulated to December 31, 2020, and Disbursement where the State is not required to reimburse the Fund.




Below is a table with the income and expenses statement at December 31, 2020:

| Inter-American Court of Human Rights<br>Victims' Legal Assistance Fund<br>Income and expenses statement<br>From January 1 to December 31, 2020 (in US$) | | |
|---|---|---|
| **Income:** | | |
| | Contributions to the Fund: | 444,511.57 |
| | Reimbursements by States: | 261,899.91 |
| | Interest paid on arrears: | 24,870.40 |
| | Interest on bank accounts: | 4,096.36 |
| | **Total Income: $ 735,378.24** | |
| **Expenses:** | Disbursements to beneficiaries of the Fund: | (379,891.64) |
| | Non-reimbursable expenses: | (7,976.38) |
| | Financial and administrative expenses: (Audit, banking commission and exchange differential) | (6,853.26) |

| | |
|---|---|
| **Total Expenses $** | **( 394,721.28)** |
| **Positive balance: $** | **340,656.96** |

### 3.4 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, 2015, 2016, 2017, 2018 and 2019 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 2020 audit report remains pending and will be issued during the first quarter of 2021 and included in the 2021 Annual Report. 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.

## B. Inter-American Public Defender

The Court's Rules of Procedure, in force since January 1, 2010, introduced the mechanism of the Inter-American Defender. The purpose of this 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.

To implement the concept of inter-American defender, in 2009, the Court signed a Memorandum of Understanding with the Inter-American Association of Public Defenders (hereinafter "the AIDEF"),[270] ewhich 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 24 cases:

270 AIDEF is an organization composed of State institutions and associations of public defenders. Its objectives include providing the necessary assistance and representation to individuals and ensuring the rights of defendants, that permit a full defense and access to justice, with the due quality and excellence.

1) Pacheco Tineo Family v. Bolivia;
2) Furlan and family v. Argentina;
3) Mohamed v. Argentina;
4) Argüelles et al. v. Argentina;
5) Canales Huapaya et al. v. Peru;
6) Ruano Torres et al. v. El Salvador;
7) Pollo Rivera et al. v. Peru;
8) Zegarra Marín v. Peru;
9) Ortiz Hernández et al. v. Venezuela;
10) Poblete Vilches et al. v. Chile;
11) V.R.P., V.P.C. et al. v. Nicaragua;
12) Amrhein et al. v. Costa Rica;
13) Jenkins v. Argentina;
14) Girón et al. v. Guatemala;
15) Martínez Coronado v. Guatemala;
16) Rodríguez Revolorio et al. v. Guatemala;
17) Villaseñor Velarde et al. v. Guatemala;
18) Muelle Flores v. Peru;
19) Cuya Lavi v. Peru
20) López et al. v. Argentina
21) González et al. v. Venezuela
22) Cordero Bernal v. Peru
23) Willer et al. v. Haiti
24) Casierra Quiñonez et al. v. Ecuador

# Reinforcement of the institutional policy with regard to sexual and workplace harassment

# XI. Reinforcement of the institutional policy with regard to sexual and workplace harassment

The Inter-American Court of Human Rights has made a firm and clear commitment to prevent and, if applicable, not to tolerate any type of harassment as a practice that is contrary to the dignity of the individual. Consequently, it is constantly endeavoring to take all necessary steps to generate and consolidate a hospitable, healthy and respectful working environment, free of conflict and any form of discrimination.

As part of this institutional policy, the Inter-American Court has taken new measures in this regard and, in 2020, adopted new Internal Regulations on conflict resolution for the prevention and elimination of all forms of sexual and workplace harassment, which have been in force since July 10, 2020. The purpose of the Regulations is to prevent and to prohibit sexual and workplace harassment and, if appropriate, to sanction it and adopt the necessary corrective measures.

The Regulations establish a conflict resolution system that takes into account the interests of the parties in disagreement, promotes constructive dialogue, achieves improved collaboration in the workplace, and manages any conflicts that arise appropriately, recommending options to resolve problems and grievances related to sexual and workplace harassment and, in certain cases, to adopt the required corrective measures. To this end, the Regulations establish the mechanism of "Counselor" delegated to conduct the informal conflict resolution procedure. They also create the Sexual and Workplace Harassment Committee responsible for substantiating any complaints of sexual or workplace harassment under the formal procedure established in the regulations.

Furthermore, aware that the prevention of sexual and workplace harassment is an essential component of the measures that the IACtHR must take, compulsory training and awareness raising activities will be held on a regular basis for everyone, whether or not they are members of the Court's staff. The purpose of these activities is to create awareness of zero tolerance for any type of sexual and workplace harassment within the Court, to promote a better understanding of what constitutes workplace harassment, to provide guidance on the Regulations and the corresponding procedures, as well as to foster the creation of an open and harmonious working environment. These activities will be organized by the Working Environment Committee which, among other functions, was created to initiate, coordinate and follow up on the implementation of the preventive and proactive measures established in the regulations.

The training and awareness raising activities will be mandatory for everyone to whom the regulations apply, whether or not they are members of the Court's staff. Therefore, this includes interns and visiting professionals, visitors, translators, interpreters, consultants and any personnel who are subcontracted.

# Other activities of the Court

# XII. Other activities of the Court

## A. Inauguration of the 2020 Inter-American Judicial Year

On February 3, 2020, the Opening Ceremony of the Inter-American Judicial Year 2020 was held with the participation of the Honorable President of the Republic of Costa Rica, Mr. Carlos Alvarado Quesada, the First Lady of the Republic of Costa Rica, Mrs. Claudia Dobles Camargo and Mrs. Christina Figueres Olsen, former Executive Secretary of the United Nations Framework Convention on Climate Change, as well as other high authorities of the Costa Rican government, members of the Diplomatic Corps accredited in Costa Rica and representatives of civil society. Prior to the ceremony, the Plenary of the Inter-American Court met with the President of the Republic of Costa Rica, the First Lady and the Minister of Foreign Affairs and Worship where they had the opportunity to discuss human rights challenges in the region and the world.

During the Inauguration Ceremony of the Inter-American Juridical Year 2020, the new Board of Directors of the Court was formally sworn in, composed of Judge Elizabeth Odio Benito as President and Judge Patricio Pazmiño Freire as Vice President. This new Board of Directors began its mandate on January 1, 2020 and will conclude its term on December 31, 2021.

As part of the Inauguration Ceremony of the Inter-American Judicial Year 2020, a Keynote Lecture on "Human Rights and Climate Change" was given by Ms. Christiana Figueres Olsen, who served as Executive Secretary of the United Nations Framework Convention on Climate Change.






## B. Dialogue with regional human rights courts

### COVID-19 and human rights: dialogue between the three regional human rights courts

On July 13, 2020, the Inter-American Court of Human Rights, together with the European Court of Human Rights and the African Court of Human and Peoples' Rights held the first virtual dialogue between the three regional human rights courts. The topic of the dialogue was the impact of COVID-19 on human rights. The activity took place in the context of the continuous cooperation between the three regional courts, which has resulted in the Declarations of San José (2018) y de Kampala (2019).

The event was inaugurated by the President of the Inter-American Court of Human Rights, Judge Elizabeth Odio Benito, the President of the European Court of Human Rights, Judge Robert Spano, and the President of the African Court of Human and Peoples' Rights, Judge Sylvian Oré.

In addition, participants in the dialogue included the Vice President of the Inter-American Court of Human Rights, Judge Patricio Pazmiño Freire, Judge Anja Selbert-Fohr of the European Court of Human Rights, Judge Arfinn Barsen of the European Court of Human Rights and Judge Stella Anukam of the African Court of Human and Peoples' Rights. The dialogue between judges of the three courts was moderated by Dr. Mónica Pinto, Professor of the Law Faculty of the Universidad de Buenos Aires.

The video of the event can be found here.

### Website of the dialogue between the world's three regional human rights courts

As part of the joint efforts between the three regional human rights courts, a website has been set up that contains information on the joint case law of the Courts, the Declaration of San José, the Declaration of Kampala, and on all the activities held in the context of the collaborative efforts between the African Court of Human and Peoples' Rights, the European Court of Human Rights, and the Inter-American Court of Human Rights.

This is the link for the website: https://www.corteidh.or.cr/tablas/tres-cortes/index.html.


### African Court of Human and Peoples' Rights

On August 10, 2020, the Secretary of the Inter-American Court, Pablo Saavedra Alessandri, took part in a webinar on the protection of the civic space under the African and inter-American systems. The webinar was entitled "Webinar 1: A Judicial Dialogue between African and Inter-American Regional Courts on the Protection of Civic Space." The Secretaries of the African Court of Human and Peoples' Rights, Robert Eno, and the East African Court of Justice, Yufnalis Okubo, also took part in the discussion.

On August 31, 2020, the Adviser to the President of the Inter-American Court, Bruno Rodríguez Reveggino, took part in a webinar on the submission of amicus curiae briefs to the Inter-American Court.

Both events were organized by the Pan African Lawyers Union and Robert F. Kennedy Human Rights.

On October 13, 2020, the Adviser to the President took part in a virtual workshop: "Experiential Learning Sessions" organized by the African Court of Human and Peoples' Rights. The workshop dealt with "Special procedures in international courts." The lawyer referred to the Court's practices in relation to the reception of amicus curiae briefs and on-site procedures in the territory of the States.

## C. Dialogue with the Organization of American States - OAS

### General Assembly of the Organization of American States and Committee on Juridical and Political Affairs of the OAS Permanent Council

On April 30, 2020, the Inter-American Court, represented by its President, Judge Elizabeth Odio Benito, presented its 2019 Annual Report to the Committee on Juridical and Political Affairs of the OAS Permanent Council. The report was presented virtually to the representatives of the Members States, the OAS Secretary General, and representatives of Observer States.

The video of the presentation can be found here.

On October 21, 2020, the President presented the Annual Report to the fiftieth General Assembly of the Organization of American States. The President described the Inter-American Court's work and achievements during 2019 to the Ministers for Foreign Affairs and Delegates of the Member States of the Organization of American States.

The video of the presentation can be found here.

## Inter-American Commission on Women (CIM/OAS) and Follow-up Mechanism to the Convention of Belém do Pará (MESECVI)

On May 29, 2020, a High-level Meeting was held on "Violence against women and girls and the COVID-19 pandemic" organized by the Inter-American Court of Human Rights, the Inter-American Commission on Women (CIM/OAS) and the Follow-up Mechanism to the Convention of Belém do Pará (MESECVI), with the participation of more than 2,300 people connected on different platforms.

The panel consisted of Alejandra Mora Mora, Executive Secretary of CIM/OAS; Dubravka Simonovic, United Nations Special Rapporteur on violence against women, its causes and consequences; Tatiana Rein Venegas, President of the MESECVI Committee of Experts; Lucy Asuagbor, Special Rapporteur on women's rights of the African Commission on Human and Peoples' Rights, and Marceline Naudi, President of the Group of Experts on Action against Violence against Women and Domestic Violence of the Council of Europe.

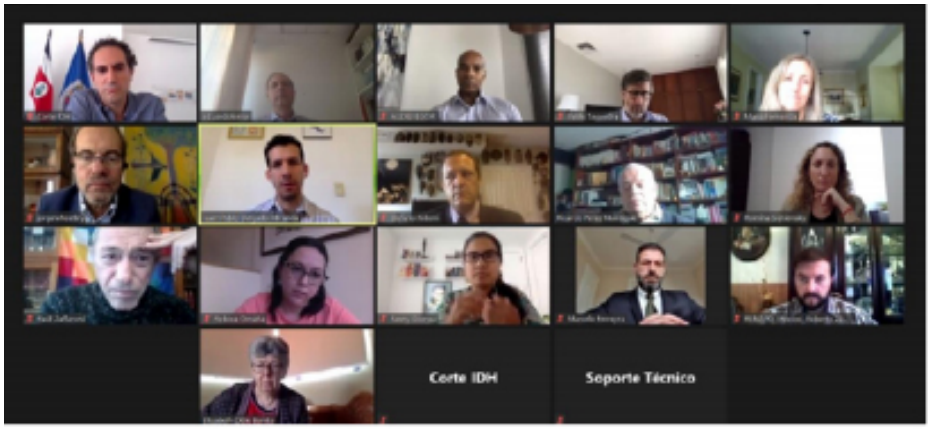
The video of the High-level Meeting can be found here.

## Civil identification and gender identity: the impact of Advisory Opinion 24 on peoples' lives

On July 16, 2020, the Inter-American Court of Human Rights, headed by its President Judge Elizabeth Odio Benito, together with Judges Eduardo Ferrer Mac-Gregor Poisot, Raúl Zaffaroni and Ricardo Pérez Manrique, held a meeting with the OAS Universal Civil Identity Project of the Americas (PUICA), SynergIa – Initiatives for Human Rights, and the National Civil and Personal Identification Registry (RENAPO) of Mexico.

The purpose of the meeting was the presentation to the Inter-American Court of the report “Overview of the Legal Recognition of Gender Identity in the Americas,” which describes the practices in force in the Americas to ensure the right of the individual to have his/her gender identity officially recognized as he/she perceives it.

Based on this compilation, the report elaborates a compendium of regional best practices, as well as the problems that remain to be resolved. The document helps understand the way the standards concerning the recognition of the self-perceived gender identity contained in Advisory Opinion 24/2017 on “State Obligations in relation to Change of Name, Gender Identity, and Rights deriving from a relationship between Same-Sex Couples” are respected within each State in the region.




## Webinar of the Inter-American Commission on Human Rights on Right to Health and COVID-19""

On May 19, 2020, the Vice President of the Inter-American Court, Judge Patricio Pazmiño Freire, took part in the Webinar of the Inter-American Commission on Human Rights on Right to Health and COVID-19 during which he gave a presentation entitled “Right to Health and COVID-19. A coded reading of human rights: Indivisible, interdependent and non-regressive.”

## D. Dialogue with the United Nations

### United Nations Human Rights Committee

On October 26, 2020, the Inter-American Court of Human Rights and the United Nations Human Rights Committee held a virtual meeting during which they exchanged opinions on various matters related to their work in the area of human rights at the inter-American and universal level.

The President of the Inter-American Court, Judge Elizabeth Odio Benito, emphasized that "[o]ur two institutions are here to demonstrate our commitment to the individual in the context of the pandemic that is afflicting us, and that human rights are crucial for our recovery." In the course of the meeting, participants took stock of the collaboration between the Inter-American Court and the United Nations Human Rights Committee, and the President indicated that "the Inter-American Court considers that dialogue with other organs for the protection of human rights is essential in order to discuss substantive and procedural issues, and to share experiences."

The dialogue covered the following issues from the perspective of the two institutions: "the impact of COVID-19 on substantive and procedural work," "the right to peaceful assembly" and "the mechanisms for monitoring compliance with decisions."

### Office of the United Nations High Commissioner for Human Rights

On August 7, 2020, an Inter-American Court Secretariat lawyer took part, virtually, in the "Regional Forum on Human Rights and Business" organized by the Office of the United Nations High Commissioner for Human Rights. The event discussed reparations for human rights violations in the context of business activities. The lawyer presented the Court's case law on comprehensive reparations and State obligations to ensure human rights in the context of state activities.

The video of the event can be found here.

### Petitions Section of the Office of the United Nations High Commissioner for Human Rights

On December 16, 2020, a virtual meeting was held between the Petitions Section of the Office of the United Nations High Commissioner for Human Rights and the Secretariat of the Inter-American Court. The purpose of the meeting was to discuss the most relevant case law development during the year, as well as substantive and procedural aspects of the two bodies.

### 72nd anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide

On December 9, the President of the Inter-American Court took part in the commemoration of the 72nd anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide and the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime organized by the United Nations Office on Genocide Prevention and the Responsibility to Protect. The United Nations Secretary-General, Antonio Guterres, took part in the event , together with other authorities.

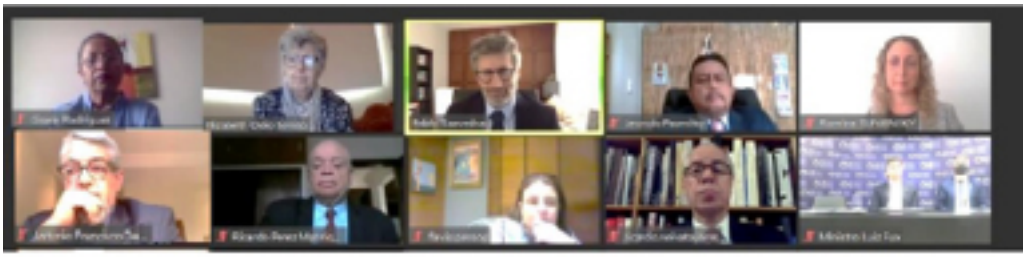
## E. Dialogue with the International Committee of the Red Cross (ICRC)

On December 7, 2020, a workshop was held on "Environmental protection within the framework of international human rights law and international humanitarian law." The workshop between the IACtHR and the ICRC provided an opportunity for discussions on aspects of convergence between the Court's case law concerning environmental protection and this protection in light of international humanitarian law. Lawyers and legal assistances from the Court's Legal Area and ICRC officials took part in the workshop.

## F. Dialogue with national courts

### National Justice Council of Brazil

On December 10, 2020, in the context of International Human Rights Day, the Inter-American Court of Human Rights and the National Justice Council of Brazil signed an institutional cooperation agreement. The agreement created opportunities for collaborative efforts between the two institutions to implement ongoing training programs for judicial agents in Brazil. The agreement will also allow the Court's judgments to be translated into Portuguese, permit research visits to the Inter-American Court by Brazilian judges, and also seminars and publications. The agreement was signed by the President of the Inter-American Court, Judge Elizabeth Odio Benito, and the President of the Federal Supreme Court of Brazil, Justice Luiz Fux.



## G. Dialogue with Heads of State and Government

### President of the Republic of Costa Rica receives a protocol visit from the President and Vice President of the Inter-American Court of Human Rights

On January 23, 2020, the President of the Republic of Costa Rica, Carlos Alvarado Quesada, received an official visit from the President of the Inter-American Court of Human Rights, Judge Elizabeth Odio Benito, the Vice President, Judge Patricio Pazmiño Freire, and the Secretary, Pablo Saavedra. During the meeting, participants exchanged opinions on the challenges to human rights in the hemisphere.

## H. Cycle of Inter-American Conferences: "Present and future challenges and impacts of COVID-19 for human rights and the rule of law"

### Cycle of Inter-American Conferences: "Present and future challenges and impacts of COVID-19 for human rights and the rule of law"

In order to contribute to and enhance academic debate in the inter-American sphere, and in the world, as a result of the series of problems and challenges we are facing as a society, the Inter-American Court organized a cycle of virtual conferences entitled "Present and future challenges and impacts of COVID-19 for human rights and the rule of law."

On April 9, 2020, the Court issued Statement 1/2020, in which it identified a series of problems and challenges that have arisen as a result of the pandemic and how these should be approached from a human rights perspective and respecting the rule of law.

Moreover, through this cycle of conferences, the Court sought to create academic thought and dialogue on how to approach – from the perspective of human rights – State responses, strategies and efforts to mitigate and eliminate the transmission of the new coronavirus in keeping with international human rights obligations and in the context of the rule of law.

The virtual cycle of conferences was based on six core topics:

1. Persons deprive of liberty and COVID-19.

2. Gender-based violence and COVID-19.

3. Restrictions and the suspension of rights and COVID-19.

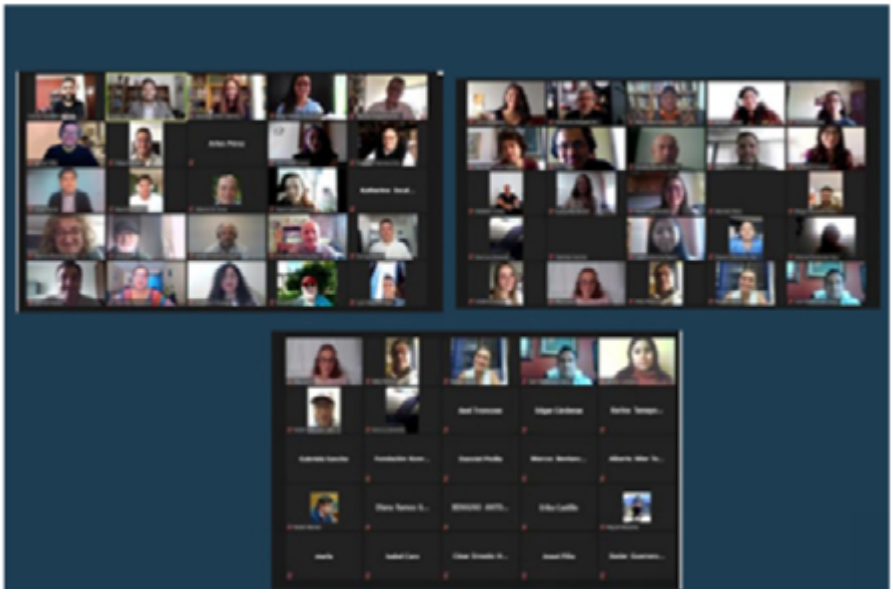
4. The economic impact of COVID-19 and its consequences on the enjoyment of economic, social cultural and environmental rights.

5. The impact of COVID-19 on vulnerable groups.

6. The impact of COVID-19 on the rule of law and its challenges.

The Inter-American Court implemented this initiative with the support of various academic institutions. The presentations were made by the Court's judges, distinguished experts from other international bodies, members of academe, human rights defenders, and also journalists and civil society in general, and referred to the human rights challenges that the region is facing due to COVID-19.

The Cycle of Inter-American Conferences assembled more than 23,000 participants from 34 countries in six seminars. The video of the Cycle can be found here.

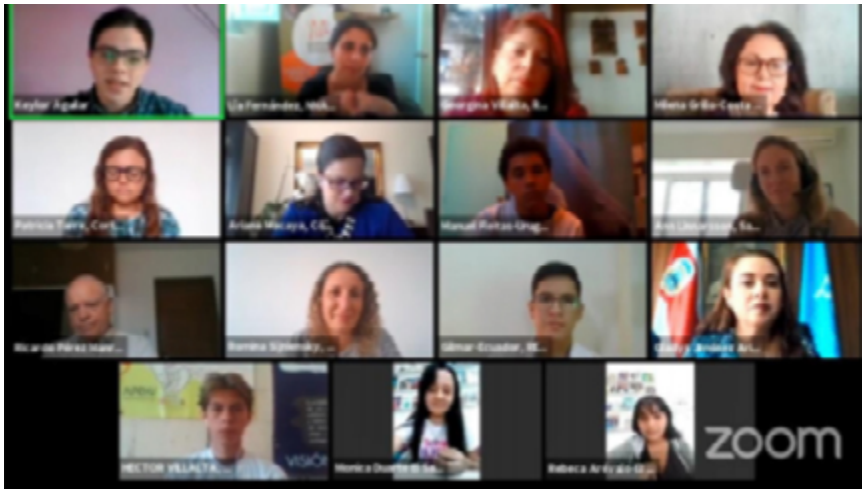



# I. Conferences and seminars

## Children of Latin America and the Caribbean converse with the IACtHR

On December 11, 2020, on International Human Rights Day, the voices of children and adolescents of the region were once again heard by the Inter-American Court of Human Rights, by means of a direct conversation in which they could express their feelings about certain experiences before representatives of the Inter-American Court, through a link with Save The Children in Latin America and the Caribbean and the PANIAMOR Foundation.

Children from Ecuador, El Salvador, Nicaragua and Uruguay of the Latin American and Caribbean Network of Children and Adolescents (REDNNyAS) and the Regional Platform for the defense of children's rights (Plataforma NNAPES), delivered the document *"Vamos a conocer a la Corte IDH y lo que ha dicho sobre nuestros derechos priorizados en clave de 5 + 1"* to Judge Ricardo Pérez Manrique, the Deputy Secretary, Romina Sijnienksy, and some of the Secretariat's lawyers.




## Webinar "Freedom of the press and access to information in times of COVID-19"

On May 7, 2020, a Webinar was held on "Freedom of the press and access to information in times of COVID-19" organized by the Rule of Law Program for Latin American of the Konrad Adenauer Stiftung Foundation, the UNESCO Regional Office for Information and Communication, and the Inter-American Court of Human Rights.

The members of the Webinar panel were: Judge Ricardo Pérez Manrique of the Inter-American Court of Human Rights; Marie Christine-Fuchs, Director of the Rule of Law Program of the Konrad Adenauer Foundation; Edison Lanza, Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, and Guilherme Canela, Head of UNESCO's Section on Freedom of Expression.

More than 1,000 people from 26 countries took part in the activity using social networking platforms of the Inter-American Court of Human Rights.

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## J. Other activities

• On February 21, 2020, the Deputy Secretary, Romina Sijniensky, participated as a speaker in the XII World Conference of the International Association of Refugee and Migration Judges. San José, Costa Rica.

• On February 28, 2020, the Deputy Secretary, Romina Sijniensky, participated as a panelist in the Forum on "New migratory flows in Central America: determinants and challenges for the protection of human rights," organized by the IOM Regional Office in San José, Costa Rica.

• On March 5 and 6, 2020, the Deputy Secretary, Romina Sijniensky, participated as a speaker in the seminar: "From the judgment in González *et al.* ("Cotton Field") v. Mexico to the judgment in Women Victims of Sexual Torture in Atenco: progress and pending issues," organized by the Observatory on the Inter-American System Of Human Rights of the UNAM Legal Research Institute. Ms. Sijniensky was part of Roundtable No, 1 on : The relevance of the measures of reparation included in judgments of international organs as a path towards eradicating gender violence in Mexico." Mexico City, Mexico.

• On June 26, 2020, the President of the Inter-American Court of Human Rights, Judge Elizabeth Odio, received the Prominent Women in International Law Award of the American Society of International Law, an association with more than 4,000 members in 100 countries.

• On August 18, 2020, the Deputy Secretary, Romina Sijniensky participated as a panelist in the Sixth Virtual Roundtable on: "The role of the organs of the inter-American system, judges and national human rights institutions in the face of the impact of COVID-19 on migrants, asylum seekers, and refugees," which formed part of a series of events on: "Multisectoral responses for the protection of the rights of migrants, refugees and internally displaced persons in the times of the COVID-19 pandemic," organized by the OAS Department of Social and the Academy on Human Rights and Humanitarian Law at American University.

• On September 1, 2020, the Deputy Secretary, Romina Sijniensky was a panelist in the Cycle of Virtual Forums "Strategic litigation of cases of violence against women in politics in Latin America," organized by OAS/ CIM, MESECVI and UN Women.

• On September 29, the Deputy Secretary, Romina Sijniensky and the Adviser to the President, Bruno Rodríguez Reveggino, took part in the virtual roundtable: "International Court Administration in Pandemic Times: Challenges and Opportunities," organized by the American Society of International Law.

• On September 31, a Secretariat lawyer took part in a virtual workshop on "Presenting Amicus Curiae and Intervener Briefs before International Courts" organized by the Pan African Lawyers Union and Robert F. Kennedy Human Rights.

• On October 12, 2020, a Secretariat lawyer took part in a virtual conference "Special Procedures in International Law," organized by the American Bar Association and the African Union.

• On October 23, 2020, the Deputy Secretary, Romina Sijniensky was a member of the jury for the final of the first edition of the university competition: "The path to the Supreme Court," organized by the General Directorate for Human Rights of the Mexican Supreme Court of Justice of the Nation.

• On October 28, 2020, the Inter-American Court of Human Rights, together with the Inter-American Institute of Human Rights (IIDH), the International Bar Association (IBA) and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) organized the International Congress on Sexual Diversity and Human Rights in Latin America and the Caribbean which was held virtually.

- On October 28, 2020, the Deputy Secretary, Romina Sijniensky, was a speaker in the Forum: Control of conventionality and standards for due diligence in cases of violence against women and girls, organized by UNDP and the Spotlight initiative in El Salvador.

- On November 4, 2020, a Secretariat lawyer took part as a speaker in the International Forum "Public opinion and information trends: democracy, ethics and human rights," held in the context of the Press and Communication Professionals' Week, dedicated to the UN Agenda 2030 for sustainable development, in San José, Costa Rica, organized by the Costa Rican Journalists Professional Association.

- On December 4, 2020, two Secretariat lawyers took part in a virtual discussion on the judgment in the Case of the Workers of the Fireworks Factory in Santo Antônio de Jesus and their next of kin v. Brazil, organized by the Universidad de La Sabana in Colombia.

- On November 13, 2020, the Deputy Secretary, Romina Sijniensky was a speak in the course on "Application of human rights standards in the preliminary hearings of the criminal proceedings," organized by the Public Criminal Defense Service of Chile and the Universidad Alberto Hurtado.

- On November 25, 2020, a discussion was held on "Multiple perspectives in the context of the International Day for the Elimination of Violence against Women: women in journalism, cinema and human rights," as part of the activities to accompany the audiovisual exposition "Miradas a los Derechos Humanos."

# Human Rights education and training programs

# XIII. Human Rights education and training programs

## A. Training programs for agents of justice

During 2020, the Inter-American Court organized 14 human rights training activities in the execution of five training projects. It should be noted that these were not isolated activities, but rather training processes of different durations. As explained below, many of these training processes consisted on three training events combined in a single course. The Inter-American Court conducted the training activities for persons involved in the administration of justice in conjunction with the national institutions of justice of Mexico, Guatemala, Honduras, El Salvador, Costa Rica and Ecuador. Also, members of civil society and the staff of state institutions of all Central America and Dominican Republic took part in the basic training activities.

Furthermore, it should be noted that after the World Health Organization declared that COVID-19 could be characterized as a pandemic on March 11, 2020, and based on the "National health guidelines to monitor coronavirus infections" issued by the Costa Rican Government, the Inter-American Court suspended all presential activities, and rescheduled the activities of the training projects so that they could be held virtually. This involved an enormous effort of reorganization and discussions with numerous national counterparts. The different training activities implemented are described below.

## 1. Training program in Central America

A major part of the project commenced on October 1, 2019, with the support of the Swiss Agency for Development and Cooperation (COSUDE), is addressed at enhancing capacities in the area of human rights of domestic courts, judiciaries, public prosecution services, public defense services, ombudsmen, universities and other key institutions for the protection of human rights of El Salvador, Guatemala and Honduras, by different training activities on international human rights law and the case law of the Inter-American Court. As part of these activities during 2020, three different types of training processes were executed in the three target countries.

### 1.1 Refresher diploma course on the case law of the Inter-American Court of Human Rights in Guatemala, Honduras and El Salvador

This medium-length training process had a duration of approximately 50 hours of training divided into three modules: (a) an initial module imparted in person in Guatemala and, once the pandemic had been declared, by videoconferences in real time for Honduras and El Salvador; (b) a self-training virtual module, which included 16 presentations recorded by the Court's lawyers, and (c) a closing module composed of videoconferences in real time. For each module, participants had access to additional reading material through the virtual classroom created by the Court on the EvolCampus platform.

During the real-time videoconferences, participants were able to interact with the teaching team and ask questions. In the case of the virtual self-training module, participants could consult the reading material and the pre-recorded presentations in the virtual classroom. These presentations were divided into four thematic units and, at the end of each self-training unit, participants completed a short multiple-choice questionnaire to verify that the training material had been studied.

The course provided an initial training on international human rights law, the inter-American system of human rights, control of conventionality, the main case law standards of the Inter-American Court, and topics relating to the administration of justice and human rights, particularly those related to Articles 8 and 25 of the American Convention on Human Rights. At the end of the course, the Court's Secretariat and the national counterparts awarded a certificate of participation to those who attended the course and passed with a note of 80 or more based on the course material and the respective evaluations.

Each of the participating institutions distributed the announcement of the course and selected the participants. The Judicial Training Academy of El Salvador, the Institute of Constitutional Justice of the Constitutional Court of Guatemala, and the Judicial Academy of Honduras were the principal institutions responsible for distributing information to, and receiving information from, all the other domestic institutions and participants.

From February 13 to July 10, 2020, the "Refresher diploma course on the case law of the Inter-American Court of Human Rights" was held in Guatemala, with the participation of 150 persons, including judges, officials of the Constitutional Court of Guatemala, prosecutors of the Public Prosecution Services, public criminal defenders, and agents of the Ombudsman's Office. The sessions of the initial module were imparted by Professor Juana María Ibañez Rivas, and three lawyers from the Inter-American Court's Secretariat. The virtual self-training module consisted of lessons pre-recorded by lawyers from the Court's Secretariat, and the closing module was given by Professor Claudio Nash Rojas and Professor Silvia Edith Martínez. The Inter-American Court was represented by its Vice President, Judge Patricio Pazmiño Freire, in the inauguration of the course, and the Republic of Guatemala by the then President of the Constitutional Court, Justice Bonerge Mejía Orellana. The President of the Inter-American Court, Judge Elizabeth Odio Benito, and the President of the Constitutional Court, Justice Gloria Patricia Porras Escobar, participated in the closure of the course.

Subsequently, the "Refresher diploma course on the case law of the Inter-American Court of Human Rights" was held from August 18 to October 2, 2020, in Honduras, on the virtual platform of the Judicial Academy. 75 officials of the administration of justice took part in the course, including judges, prosecutors of the Public Prosecution Services, and

agents of Attorney General's Office. The sessions of the initial module were imparted by Professor Claudia Martin. The virtual self-training module consisted of lessons pre-recorded by lawyers from the Court's Secretariat, and the closing module was given by Professors Claudio Nash Claudia Martin, Julieta Di Corletto, Astrid Orjuela Ruiz and Inti Schubert. The Inter-American Court was represented by its Vice President, Judge Patricio Pazmiño Freire, in the inauguration of the course, and the Republic of Honduras by the Director of the "Francisco Solomón Jiménez Castro" Judicial Academy, Elsa Gertrudis Calderón Godoy, and the Assistant Attorney General, Marcia Nuñez Ennabe. The Secretary of the Inter-American Court, Pablo Saavedra Alessandri, represented the Court in the closure of the course and Honduras was represented by the Director of the "Francisco Solomón Jiménez Castro" Judicial Academy, Elsa Gertrudis Calderón Godoy, and the Assistant Attorney General, Marcia Nuñez Ennabe.

Lastly, from August 25 to October 15, 2020, the "Refresher diploma course on the case law of the Inter-American Court of Human Rights" was held in El Salvador, using the virtual platform of the "Dr. Arturo Zeledón Castrillo" Judicial Training Academy. 75 officials took part in the course, including judges, prosecutors of the Public Prosecution Services, and agents of Attorney General's Office and the Ombudsman's Office. The sessions of the initial module were imparted by Professors Claudia Martin and Juana María Ibáñez. The virtual self-training module consisted of lessons pre-recorded by lawyers from the Court's Secretariat, and the closing module was given by Professors Claudia Martín, Silvia Edith Martínez and Julieta Di Corletto. The Inter-American Court was represented by its Vice President, Judge Patricio Pazmiño Freire, in the inauguration of the course, and the Republic of El Salvador by the Secretary General of the Office of the Prosecutor General, Ana Virginia Samayoa, and the Director of the "Dr. Arturo Zeledón Castrillo" Judicial Training Academy, Dania Elena Tolentino Membreño. The Secretary General of the Office of the Prosecutor General, Ana Virginia Samayoa, and the Director of the "Dr. Arturo Zeledón Castrillo" Judicial Training Academy, Dania Elena Tolentino, took part in the closure of the course.

### 1.2 Course on "The rights of indigenous and tribal peoples in the case law of the IACtHR." Guatemala, Honduras and El Salvador

This specific training course sought to enhance the capabilities of the institutions for the administration of justice by providing training to their officials on the case law standards of the Inter-American Court of Human Rights in relation to the State's international obligations in light of the rights of indigenous and tribal peoples.

This was a 22-hour course, divided into at least 12 hours of videoconferences in real time and 10 hours of mandatory consultation of the bibliography. During the videoconferences participants could interact with the presenters in rounds of questions and answers. The teaching team for this course consisted of Professors Juana María Ibáñez Rivas and Raquel Yrigoyen Fajardo.

The course was held in Guatemala from September 21 to 25, 2020, using the videoconferencing platform of the Institute of Constitutional Justice (IJC) of the Constitutional Court of Guatemala. 140 officials of the administration of justice took part in the course, including judges, officials of the Constitutional Court of Guatemala, prosecutors of the Public Prosecution Service, public criminal defenders, and agents of the Ombudsman's Office. The Inter-American Court was represented in the official acts by its Vice President, Judge Patricio Pazmiño Freire, and Guatemala by the President of the Constitutional Court, Justice Gloria Patricia Porras Escobar.

Then, from October 26 to 30, 2020, the course was imparted in El Salvador, using the videoconferencing platform of the "Dr. Arturo Zeledón Castrillo" Judicial Training Academy. 65 officials of the administration of justice took part in the course, including judges, prosecutors of the Public Prosecution Service, and agents of Attorney General's Office and of the Ombudsman's Office. Dr. María Antonieta Josa de Parada, President of the National Council of the Judicature of El Salvador participated in the official acts.

Lastly, from November 30 to December 4, 2020, the course was held in Honduras, using the videoconferencing platform of the Judicial Academy. 78 officials of the administration of justice took part in the course, including judges, prosecutors of the Public Prosecution Service, and agents of Attorney General's Office, The Inter-American Court was represented in the official acts by its Vice President, Judge Patricio Pazmiño Freire, and the Republic of Honduras, by the Director of the Training Academy of the Office of the Prosecutor General, Dr. Carlos Cálix Vallecillo, and the

Assistant Attorney General, Marcia Núñez Ennabe.

### 1.3 Specific course on "Impunity and gross human rights violations," in Guatemala, Honduras and El Salvador

This course sought to enhance the capabilities of the institutions for the administration of justice by providing training on the case law of the Inter-American Court of Human Rights concerning impunity and gross human rights violations. This was a 22-hour course, divided into at least 12 hours of videoconferences in real time and 10 hours of mandatory consultation of the bibliography. During the videoconferences participants could interact with the presenters in rounds of questions and answers. The expert responsible for imparting the course in the three project countries was Professor Elizabeth Salmón Gárate.

The course was held in Guatemala from October 12 to 19, 2020, using the videoconferencing platform of the Institute of Constitutional Justice (IJC) of the Constitutional Court of Guatemala. 135 officials of the administration of justice took part in the course, including judges, officials of the Constitutional Court of Guatemala, prosecutors of the Public Prosecution Service, public criminal defenders, and agents of the Ombudsman's Office. The Inter-American Court was represented in the official acts by its Secretary, Pablo Saavedra Alessandri, and the Republic of Guatemala by the President of the Constitutional Court, Justice Gloria Patricia Porras Escobar.

Then, from November 3 to 6, the course was held in El Salvador, using the videoconferencing platform of the "Dr. Arturo Zeledón Castrillo" Judicial Training Academy. 50 officials of the administration of justice took part in the course, including judges, prosecutors of the Public Prosecution Service, and agents of Attorney General's Office and of the Ombudsman's Office. Dr. María Antonieta Josa de Parada, President of the National Council of the Judicature of El Salvador participated in the official acts.

Lastly, from November 9 to 13, 2020, the course was held in Honduras, using the videoconferencing platform of the Judicial Academy. 75 officials of the administration of justice took part in the course, including judges, prosecutors of the Public Prosecution Service, and agents of Attorney General's Office, The Assistant Director of the Judicial Academy of Honduras, and the Assistant Attorney General, Marcia Núñez Ennabe took part in the official acts.

### 2. Refresher course on the case law of the Inter-American Court of Human Rights – Judicial Academy of Costa Rica

In communication EJ-DIR-088-2020 of May 18, 2020, addressed to the Inter-American Court, the Director a.i. of the Costa Rican Judicial Academy requested that the Court impart the "Refresher course on the case law of the Inter-American Court of Human Rights" at the Judicial Academy. The course was addressed at students of the Initial Training Program for Candidates to the Judiciary, who are legal professionals who wish to undertake a career in the judiciary. Accordingly, the course was held from July 2 to August 20, 2020, using the videoconferencing platform of the Costa Rican Judicial Academy.

The course consisted of approximately 50 hours of training divided into three modules: (a) an initial module composed of videoconferences in real time; (b) a self-training virtual module, which included 16 presentations recorded by the Court's lawyers, and (c) a closing module composed of videoconferences in real time. The course provided basic training on international human rights law, the inter-American system of human rights, control of conventionality, the main case law standards of the Inter-American Court, and topics relating to the administration of justice and human rights, particularly those relating to Articles 8 and 25 of the American Convention on Human Rights. Approximately 80 candidates for the judicial career took part in the course.

During the real-time videoconferences, participants were able to interact with the teaching team and ask questions. In the case of the virtual self-training module, they had access to a virtual classroom created by the Inter-American Court. There, participants could consult the 16 pre-recorded presentations on the principal lines of case law of the Inter-American Court, divided into four thematic units. At the end of each unit, participants completed a short evaluation

questionnaire. In addition, the virtual classroom included additional reading material for participants to consult. The teaching team was composed of lawyers from the Inter-American Court's Secretariat, former officials of the Inter-American Court and the Inter-American Commission on Human Rights, and other experts. The Inter-American Court was represented by its Secretary, Pablo Saavedra Alessandri, in the inauguration of the course, and the Costa Rican Judicial Academy, by its Director a.i., Rebeca Guardia Morales. The Director a.i. of the Judicial Academy, Rebeca Guardia Morales, and the President of the Inter-American Court, Judge Elizabeth Odio Benito, took part in the closure of the course.

### 3. Refresher course on the case law of the Inter-American Court of Human Rights (2nd edition), in the United Mexican States – Institute of the Federal Judicature

Based on the Framework Cooperation Agreement signed with the Mexican Supreme Court of Justice and the Council of the Federal Judicature, the Inter-American Court implemented the program on "Enhancing institutional capacities for the protection of human rights in the Administration of Justice, Phase II." Within the framework of this program, the Inter-American Court implemented the "Refresher course on the case law of the Inter-American Court of Human Rights (2nd edition)" from August 10 to November 11, 2020.

The purpose of this diploma course, conducted virtually using the digital platform of the Institute of the Federal Judicature, was to optimize local capacities to apply international human rights law and the case law of the Inter-American Court of Human Rights. During the training procedure, participants were able to improve their knowledge of the inter-American system of human rights, the main case law standards of the Inter-American Court of Human Rights, and the application of control of conventionality. The program was addressed at current employees of the Mexican Federal Judiciary and the public in general, and more than 700 people enrolled in the course.

The 45-hour course was divided into three modules: (a) an initial 10-hour module imparted in 4 sessions by videoconferences in real time; (b) a 25-hour intermediate module imparted virtually over 10 weeks, asynchronously, and consisting of 18 pre-recorded lessons divided into five blocks, and (c) a 10-hour closing module imparted in 4 sessions via videoconferences in real time. After each block of the intermediate module, participants had to answer a short multiple-choice evaluation questionnaire on the topics developed. Also, participants were provided with a list of mandatory and suggested reading material as part of the study material. Throughout the course, participants were able to pose questions about the issues discussed during the videoconferences and in the virtual classroom, which were answered by the teaching team and personnel of the Inter-American Court's Secretariat. Participants who attended 100% of the sessions in real time and who obtained a minimum note of 8.0 during the intermediate module received a diploma certifying they had completed the course issued by the Inter-American Court and the Institute of the Federal Judicature.

The sessions of the initial module were imparted by Professor Claudio Nash Rojas; those of the intermediate module by lawyers from the Inter-American Court's Secretariat, and those of the closing module by Professors Claudia Martin and María Fernanda López Puleio. In addition, during the last module, participants were also able to attend a session imparted by Dr. Inti Schubert, on the THEMIS methodology for control of conventionality. Lastly, the closing keynote presentation was imparted by the judge of the Inter-American Court, Ricardo Pérez Manrique. The Inter-American Court was represented in the inauguration of the course by its Secretary, Pablo Saavedra Alessandri, and the Institute of the Federal Judicature by the then Director, Rafael Estrada Michel. Judge Ricardo Pérez Manrique represented the Inter-American Court during the closure of the course, and Daniela Pardo Soto Reyes, Technical Secretary for Human Rights Training and Upgrading, Gender Equality and Constitutional Justice, represented the Institute of the Federal Judicature.

### 4. Basic training courses on human rights, Heinrich Böll Stiftung Foundation

As part of the Project: "Human rights training during the Covid-19 pandemic," signed by the Inter-American Court and the Heinrich Böll Stiftung Foundation, a "Basic training course on human rights" for non-lawyers was held. The purpose of this activity was to provide basic training in human rights and educate interested persons in the practical uses of the human rights training proposal for students of non-legal university careers, as a pedagogical instrument for teaching human rights as a fundamental pillar of democratic societies.

This training proposal was addressed at Central American non-lawyers, who required an initial training in human rights and who, owing to their employment, had the potential not only to internalize the knowledge, but also to disseminate the proposal. The invitation to the course was issued on the Inter-American Court's social networks and distributed using its database and website. Initially, one course had been planned for approximately 100 participants; however, around 4,494 applications were received, 1,369 of whom complied with the requirement to be from the Central American region. Owing to the large number of registrations, the Court and the Heinrich Böll Stiftung Foundation agreed to conduct a second course and 100 more people were able to take part in this training process.

The course consisted of 10 modules imparted by videoconferences in real time, during which topics were addressed relating to basic human rights concepts, the international systems of protection, and various rights recognized in international instruments. Of these modules, eight were practical sessions given by Professor Lorena González Pinto, which sought to promote discussions among participants. The last two modules consisted in lectures imparted by the President, judges and Secretary of the Inter-American Court.

The first course was held from August 25 to September 24, 2020, with 107 participants and, in this course, personnel from the administrative area of the Inter-American Court's Secretariat were invited to take part as observers. Accordingly, 20 members of the administrative area registered for the course. The second course was held from October 6 to November 5, 2020, with 100 participants. Participants included members of the university community, representatives of indigenous communities, social activists, members of civil organizations and state officials who work with different vulnerable populations.

It is worth noting that three of the four lectures given during the course were open to the public and were broadcast live on the Court's social networks. During the first course, the lectures were given by Judge Elizabeth Odio Benito, who spoke on the topic of "The protection of human rights and vulnerable groups" and by Judge Raúl Zaffaroni, who addressed the issue of "Administration of justice and human rights." In the second course, the lecture was given by Judge Ricardo Pérez Manrique and focused on the topic of "Freedom of expression and the protection of journalists in the case law of the Inter-American Court of Human Rights." The livestreaming of these videoconferences reached an audience of 282,735.

### 5. Refresher course on inter-American procedural law and the case law of the Inter-American Court of Human Rights in Ecuador – Office of the Prosecutor General

From October 26 to December 7, 2020, the Inter-American Court held the "Refresher course on inter-American procedural law and the case law of the Inter-American Court of Human Rights" in Ecuador. The course was held under a project between the Inter-American Court and the Ecuadorian Prosecutor General's Office, and was intended to examine issues related to inter-American procedural law and the case law of the Inter-American Court of Human Rights.

This 25-hour training activity, was implemented virtually over six weeks using the platforms of the Inter-American Court. It consisted of a public forum, an initial distance module imparted by synchronous conferences, and a self-training module composed of 13 pre-recorded lessons on the case law of the Inter-American Court. The Inter-American Court was represented by Judge Humberto Antonio Sierra Porto in the inauguration of these activities, and the Prosecutor General's Office was represented by the Prosecutor General, Íñigo Salvador Crespo.

The topic of the forum was "Inter-American procedural law and the protection of human rights in the context of the COVID-19 health emergency," and it was addressed at around 400 persons, including officials from the Prosecutor General's Office, the Constitutional Court, the Council of the Judicature, the Public Defender's Office, the Attorney General's Office, public universities and several ministries of the Ecuadorian State. The speakers included: Judge Humberto Antonio Sierra Porto of the Inter-American Court; Amaya Úbeda de Torres, a Council of Europe lawyer; Soledad García Muñoz, Special Rapporteur on ESCER of the Inter-American Commission on Human Rights, and Luz Patricia Mejía Guerrero, Technical Secretary of the Follow-up Mechanism to the Convention of Belem do Pará (MESECVI).

The refresher course was addressed at 100 officials from the Prosecutor General's Office, the Constitutional Court, the Attorney General's Office, the National Court of Justice, the Council of the Judicature, and the Ombudsman's Office. The initial module was imparted by Professors Oscar Parra Vera, Juana María Ibáñez and Silvia Serrano and two lawyers from the Inter-American Court's Secretariat. The self-training module was given by lawyers from the Inter-American Court's Secretariat. Following each of the pre-recorded lessons, participants had to complete a short multiple-choice questionnaire on the respective topic. Also, they had access to the suggested reading material through the virtual classroom. Throughout the course, participants were able to pose questions on the topics discussed during the videoconferences and inside the virtual classroom, and these were answered by the teaching team and personnel from the Inter-American Court's Secretariat. Participants who attended at least 80% of the sessions in real time and who obtained a minimum of 80% during the intermediate module received a diploma attesting that they had completed the course issued by the Inter-American Court and the Prosecutor General's Office.

## B. Diploma course on Human Rights for Journalists

### First edition of the diploma course on "Journalism and human rights" organized by the Inter-American Court

On August 11, 2020, the first session was held of the diploma course in human rights for journalists organized by the Inter-American Court of Human Rights, with the support of the UNESCO Regional Office, the Rule of Law Program for Latin America of the KAS Foundation, and the Inter-American Institute of Human Rights. The activity forms part of the "Dialogue Network" composed of journalists who work on issues related to human rights in the hemisphere, and is supported by the European Commission.

More than 40 journalists from different parts of Latin America and the Caribbean took part in the course, chosen from among more than 1,300 candidates.

The first workshop was dedicated to providing participants with a general overview of the functioning of the inter-American system of human rights. During the course, participants were introduced to the different aspects of the Inter-American Court's work by its judges, and lawyers from the Court's Secretariat.

From August to October, participants were able to learn more about the Inter-American Court's work, the functioning of the inter-American system of human rights, and the case law on diverse issues that the Court has examined.

During the different workshops, participants were able to converse with the President of the Inter-American Court, Judge Elizabeth Odio Benito, as well as with the judges, Vice President Patricio Pazmiño Freire, Humberto Antonio Sierra Porto, Eduardo Vio Grossi, Eduardo Ferrer Mac-Gregor and Ricardo Pérez Manrique. Participating journalists were also able to talk directly to the Inter-American Court's lawyers, the Executive Director of the Inter-American Institute of Human Rights, José Thompson J., the Head of UNESCO's Section on Freedom of Expression, Guilherme Canela, and the Director of the Rule of Law Program of the Konrad Adenauer Foundation, Marie Christine-Fuchs.

Participating journalists formed part of the Dialogue Network that assembles more than 3,000 journalists in Latin America and the Caribbean interested in issues related to the work of the Inter-American Court.

## C. "Héctor Fix-Zamudio" Diploma course on the Inter-American Human Rights System

From September 21 to November 5, 2020, the Legal Research Institute of the Universidad Nacional Autónoma de Mexico, with the collaboration of the UNAM Legal Affairs Office, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights and the Rule of Law Program for Latin America of the Konrad Adenauer Foundation organized the diploma course on the inter-American system for the protection of human rights.

The purpose of the course was to provide students with high-level specialized academic training on the inter-American system of human rights, addressing essential content on this system and its mechanisms for protecting those rights, practical skills and tools for using human rights standards, and certain current issues in the region, through classes, conferences and panel sessions imparted by leading experts in this field.

The President and the judges of the Court, the Secretary and the Deputy Secretary, as well as seven of the Secretariat lawyers gave classes on different topics.

## D. Program of Internships and Professional Visits

The training of the human capital and the facilitation of exchanges of experience is essential for strengthening the inter-American system of human rights. This includes the training of future human rights defenders, public servants, members of the legislature, agents of justice, academics, and members of civil society, among others. It is to this end that 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.

The program offers students and professionals from the areas of law, international relations, political science, journalism, social communication and similar disciplines, the opportunity to gain experience at the seat of the Inter-American Court of Human Rights, as part of a working group in the legal area of the Secretariat. Also, during the program a series of conferences, seminars and discussions will be held with the Court's judges and lawyers in order to expand the knowledge of the future professionals.

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 in this day and age.

Over the last 16 years, the Court has received at its seat a total of 1,007 interns of 43 nationalities, in particular, academics, public servants, law students, and human rights defenders.

In 2020, the Court received at its seat 85 interns and visiting professionals from the following 15 countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, France, Mexico, Peru, Spain, Switzerland and Venezuela.

This number of interns and visiting professionals only includes those who formed part of this program between January and May 2020 because, after the World Health Organization had declared that COVID-19 could be characterized as a pandemic and based on the "National health guidelines to monitor coronavirus infections" issued by the Ministry of Public Health of the Republic of Costa Rican, the Inter-American Court decided to cancel the program from May to December 2020.

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 INTERSHIPS AND PROFESSIONAL VISITS

Period 2005-2020

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Germany | 1 | 2 | 0 | 1 | 1 | 2 | 0 | 1 | 0 | 2 | 1 | 0 | 0 | 1 | 2 | 0 |
| Andorra | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Argentina | 6 | 2 | 2 | 9 | 2 | 8 | 6 | 4 | 6 | 5 | 5 | 4 | 12 | 15 | 12 | 4 |
| Austria | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Bolivia | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 1 | 0 | 0 | 1 | 2 | 0 | 1 | 1 | 1 |
| Brazil | 1 | 2 | 5 | 4 | 6 | 5 | 4 | 1 | 1 | 3 | 3 | 3 | 3 | 7 | 2 | 3 |
| Canada | 0 | 1 | 3 | 1 | 0 | 1 | 1 | 0 | 0 | 1 | 2 | 1 | 2 | 2 | 1 | 0 |
| Chile | 2 | 0 | 2 | 4 | 1 | 3 | 2 | 2 | 4 | 3 | 4 | 3 | 5 | 6 | 6 | 9 |
| Colombia | 3 | 4 | 6 | 5 | 6 | 8 | 7 | 9 | 8 | 9 | 8 | 8 | 14 | 12 | 11 | 2 |
| South Korea | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Costa Rica | 0 | 1 | 1 | 1 | 0 | 1 | 4 | 4 | 1 | 2 | 5 | 3 | 3 | 6 | 7 | 5 |
| Cuba | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ecuador | 0 | 1 | 0 | 1 | 2 | 1 | 1 | 2 | 3 | 5 | 4 | 2 | 3 | 6 | 1 | 1 |
| El Salvador | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| Scotland | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Spain | 0 | 1 | 0 | 2 | 5 | 1 | 2 | 0 | 4 | 3 | 3 | 5 | 3 | 1 | 2 | 4 |
| United States | 14 | 3 | 16 | 4 | 5 | 13 | 5 | 11 | 6 | 7 | 3 | 5 | 3 | 3 | 2 | 0 |
| France | 1 | 0 | 2 | 2 | 4 | 3 | 1 | 2 | 5 | 1 | 1 | 2 | 1 | 0 | 2 | 1 |
| Greece | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Guatemala | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 1 | 0 | 1 | 1 | 1 | 1 | 0 | 0 |
| Haiti | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| The Netherlands | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 |
| Honduras | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 2 | 1 | 2 | 0 |
| England | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 |
| Israel | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ireland | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Italy | 1 | 2 | 0 | 0 | 1 | 1 | 2 | 2 | 1 | 0 | 2 | 0 | 0 | 2 | 1 | 0 |
| Jamaica | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kenya | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mexico | 3 | 3 | 9 | 8 | 13 | 12 | 9 | 9 | 12 | 18 | 23 | 21 | 19 | 21 | 22 | 4 |
| Nicaragua | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 |
| Norway | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Panama | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 |
| Paraguay | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Peru | 2 | 1 | 5 | 1 | 1 | 5 | 8 | 3 | 1 | 1 | 1 | 4 | 8 | 0 | 6 | 1 |
| Poland | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Portugal | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Puerto Rico | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Dominican Republic | 0 | 0 | 0 | 3 | 4 | 2 | 2 | 2 | 4 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| Switzerland | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 1 |
| Trinidad and Tobago | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Uruguay | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 |
| Venezuela | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 2 | 1 | 1 | 1 | 3 | 3 | 1 |

# Publications

# XIV. Publications

During 2020, the Inter-American Court issued the following publications:

### Institutional works

1. Joint Law Report 2019: by AfCHPR, ECHR and IACHR - the three regional Human Rights courts
2. Diálogo entre Cortes Regionales de Derechos Humanos: Spanish
3. Dialogue between Regional Human Rights Courts: English
4. 40 Years Protecting Rights

### Case Law Bulletins – New

1. No. 25: Public order and use of force
2. No. 26: Suspension and restriction of Human Rights
3. No. 27: Case law concerning Panama
4. No. 28: The right to health
5. No. 29: Case law concerning Honduras
6. No. 30: Human Rights defenders
7. No. 31: Emblematic provisional measures of the IACtHR

### Case Law Bulletins – Updated editions

1. No. 1: Death penalty
2. No. 3: Displaced persons
3. No. 2: Migrants and refugees
4. No. 6:Forced disappearance
5. No. 9: Persons deprived of liberty
6. No. 8: Personal liberty
7. No.12: Due process
8. No. 15: Transitional justice

## A. Institutional Works

### A.1. Joint Law Report 2019 - the three regional Human Rights courts

The Inter-American Court of Human Rights, the European Court European of Human Rights and the African Court of Human and Peoples' Rights published the first Joint Law Report 2019, with a selection of their principal case law developments during that year.

This initiative is part of the constant dialogue that the only three regional Human Rights Courts in the world are promoting and undertaking. The three Courts will now work together to issue a publication each year describing their principal case law developments.

The Joint Law Report 2019 is a useful tool for those interested in learning about and following closely the different case law development on the three continents.

This Joint Law Report forms part of the activities planned within the framework of the Declarations of Kampala (2019) y San José (2018), que fueron adoptadas con posterioridad a las reuniones entre las tres Cortes.
The Report is available here.

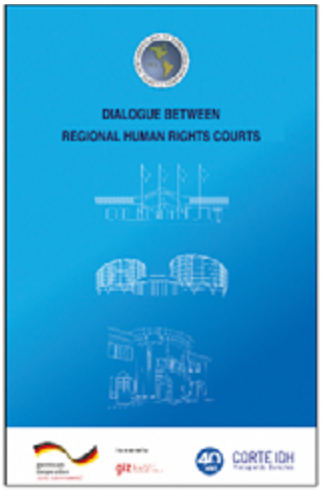
## A.2. Dialogue between Regional Human Rights Courts (in Spanish and English)

In the context of the week of celebrations to commemorate the 40th anniversary of the entry into force of the American Convention on Human Rights and the creation of the Inter-American Court of Human Rights, numerous academic and institutional activities were held relating to the progress made and the challenges remaining as regards the international protection of human rights.

These publications contain an account of all the events of the first Dialogue between Regional Human Rights Courts held on July 17, 2018, at the seat of the Inter-American Court of Human Rights in San José, Costa Rica. They contain a compilation of the presentations by Presidents and judges of the African Court of Human and Peoples' Rights, the European Court of Human Rights and the Inter-American Court of Human Rights, and by distinguished international experts, during three sessions. The purpose of these sessions was: (a) to share the principal normative, institutional and case law developments of the three courts; (b) to discuss the most important challenges and obstacles they face, and (c) to define areas for collaborative activity, reinforcing actions involving cooperation and dialogue.

The publication also includes the inaugural addresses for the week commemorating the 40th anniversary given by the United Nations Secretary-General, António Guterres, and the President of the Republic of Costa Rica, Carlos Alvarado Quesada, and also the text and photographic record of the signature of the Declaration of San José, Costa Rica.

The publication, in both the English and the Spanish version, was issued on June 1, 2020, and was publicized via the Court's social networks and by press release. Both versions were also made available to the public on the Publications section of the Court's website.

### A.3. Proceedings of the International Seminar "Successes and challenges in the regional human rights systems"

The international seminar held to commemorate the 40th anniversary of the entry into force of the American Convention on Human Rights and the creation of the Inter-American Court of Human Rights: "Successes and Challenges to the Regional Human Rights Systems" was held on July 18 and 19, 2018. It was attended by the judges of the world's three regional courts, former judges of the Court, national and international experts, senior authorities of domestic high courts, victims of human rights violations, State officials, and representatives of academe and civil society.

The publication contains, and makes available to all those interested, the presentations made during the international seminar in order to disseminate the opinions and contributions concerning the past, present and future of the Inter-American Court and of the international protection of human rights. Currently, the compilation and edition of all the texts has concluded and it is ready for the layout process and printing. It is hoped to publish this text at the beginning of the coming year.

### A.4. A.4. Publication: *Vamos a conocer a la Corte IDH y lo que ha dicho sobre nuestros derechos priorizados en clave de 5 + 1.*

In 2020, the second edition of the Dialogue between Children and Adolescents of Latin America and the IACtHR was held. This activity was organized in conjunction with Save The Children in Latin America and the Caribbean and the Paniamor Foundation of Costa Rica. In this way, continuity was accorded to the previous year's initiative when the first meeting was held in the National Auditorium on the occasion of the 30th anniversary of the United Nations Convention on the Rights of the Child.

This publication, resulting from the above-mentioned Dialogue with Children of the region, resumes some of the Court's case law on the rights of the child in a child-friendly version. When the draft version was complete, the Paniamor Foundation asked the Secretariat of the IACtHR to revise it, invited the Court to add its logo, and asked the Court to publicize it on its website, so that training material on the Inter-American Court and its case law on the rights of the child would be available to children.

The publications summarizes some of the Court's case law on the rights of the child in a child-friendly version.

## B. Case Law Bulletins of the Inter-American Court of Human Rights

The series of Case Law Bulletins is composed of publications that systematize, by topic or by country, the international standards for human rights developed by the Inter-American Court. Their purpose is to publicize in an accessible manner the Court's principal lines of case law on different issues that are of regional relevance and interest. Their preparation involves a process of identifying and systematizing the most relevant paragraphs of contentious cases and advisory opinions in which the Inter-American Court has addressed diverse issues that are crucial for human rights in the region.

All the publications, after being corrected and catalogued, were disseminated on the Court's social networks and website and by press releases. The announcements included direct links to accede easily to each of the publications in .pdf format. They were also made available to the public on the Publications section of the Court's website.

During 2020, seven new Case Law Bulletins were published and they are described briefly below, according to their date of publication.

### B.1. Case Law Bulletins of the Inter-American Court of Human Rights No. 25: Public order and use of force and No. 26: Restriction and suspension of human rights

These two bulletins were published on April 24, 2020, with a generous contribution from Germany, through the GIZ cooperation agency (Deutsche Gesellschaft für Internationale Zusammenarbeit) under the Program "Regional international law and access to justice in Latin America II (DIRAJusII)," financed by the Federal Ministry of Economic Cooperation and Development (BMZ).

The Case Law Bulletin of the Inter-American Court of Human Rights No. 25: Public order and use of force included a compilation of the most relevant paragraphs of the contentious cases in which the IACtHR has taken up the issue of public order and the use of force. The first part contains the orders in which the right of assembly has been addressed. In the second section the use of force, in particular, is examined with special emphasis on the relationship between the use of force and social protest. The third part reviews various rights related to public order and the use of force (personal liberty, due process, principle of legality, criminalization of social leaders, and states of emergency). Lastly, specific measures of reparation in relation to public order and use of force are presented.

Meanwhile, Case Law Bulletin of the Inter-American Court of Human Rights No. 26: Restriction and suspension of human rights presents a compilation of IACtHR case law on the restriction and suspension of human rights. First, the orders in which the Court has addressed the legitimate restriction of human rights, in both the general and the specific aspects, are presented. In the second part, the issue of the suspension of human rights in the context of the American Convention is developed. This section also includes IACtHR case law on rights that can never be suspended, and those that can be suspended, placing special emphasis on the minimum judicial guarantees in constitutional states of emergency, as well as the application of the right of *habeas corpus*.

### B.2. Case Law Bulletin of the Inter-American Court of Human Rights No. 27: Case law in relation to Panama

This Case Law Bulletin was published on May 4, 2020, and is the third in the series published on a specific country. Its preparation was the result of an initiative of the Human Rights Department of the Panamanian Public Attorney's Office and of the IACtHR. The publication formed part of the commemoration of the 40th anniversary of the Inter-American Court celebrated in that country and contains a compilation of the most important paragraphs from contentious cases involving Panama. Extracts are included from the Court's judgments on the contentious Jurisdiction of the Court, the State's acknowledgement of international responsibility, the rights to life, personal integrity, personal liberty, judicial guarantees and judicial protection, the principle of legality, the rights to protection of honor, and to freedom of thought and expression, the rights of assembly, to freedom of association, and to property. Lastly, the bulletin includes the measures of reparation ordered by the Inter-American Court in its judgments. In addition, as an introduction, the bulletin includes the inaugural address by the then President of the Inter-American Court, Judge Eduardo Ferrer Mac-Gregor Poisot, in the seminar held in Panama entitled "The Inter-American Court of Human Rights: 40 years protecting human rights," as well as photographs of the event and of the signature of the cooperation agreement between the two institutions.

### B.3. Case Law Bulletin of the Inter-American Court of Human Rights No. 28: The right to health

This bulletin was published on May 19, 2020, a few months after the start of the COVID-19 pandemic in our region. This publication could be produced due to the support of Germany, through the GIZ cooperation agency. First, the text addresses general aspects of the ESCER, such as their principles and their relationship to the prohibition of discrimination. Then, it presents the case law on the meaning and scope of the right to health as well as some particular developments in the case law of the IACtHR. It also analyzes the relationship between the right to health and other Convention-based rights, and describes the measures of reparation established by the Court in relation to the violation of the right to health. In addition, this bulletin includes Statement 1/20 "COVID-19 and Human Rights: The problems and challenges that must be addressed from the perspective of human rights and respect for international obligations," issued by the IACtHR in April 2020.

### B.4. Case Law Bulletin of the Inter-American Court of Human Rights No. 29: Case law in relation to Honduras

This bulletin is the fourth in the series dedicated to systematizing the Court's case law by country. It was published on October 1, as part of the project: "Strengthening the protection of human rights and the rule of law through jurisprudential dialogue, optimization of capacities, and compliance with the judgments of the Inter-American Court of Human Rights in El Salvador, Guatemala and Honduras" that the Inter-American Court has signed with the Swiss Agency for Development and Cooperation (COSUDE).

The bulletin systematizes the most relevant decisions in contentious cases involving Honduras and addresses diverse issues concerning preliminary objections, merits and reparations. It includes extracts on State acknowledgement of responsibility, general State obligations, the rights to life, personal integrity, personal liberty, judicial guarantees and judicial protection, and freedom of thought and expression, political rights, and the rights of persons deprived of liberty, of indigenous and tribal peoples, of children and adolescents, and of human rights defenders, among other issues of great relevance.

In addition to its dissemination on the IACtHR website, on its social networks and by a press release, this bulletin was presented to officials of the administration of justice in Honduras during the closing ceremony of the refresher course on the case law of the Inter-American Court of Human Rights on October 1 and 2, 2020.

### B.5. Case Law Bulletins of the Inter-American Court of Human Rights No. 30: Human Rights Defenders and No. 31: Emblematic provisional measures of the IACtHR

These two bulletins form part of the Project: "Human rights training during the Covid-19 pandemic," executed with the support of the Heinrich Böll Stiftung Foundation.

Case Law Bulletin of the Inter-American Court of Human Rights No. 30: Human Rights Defenders was published on October 30, 2020. The first part presents general elements of the role of human rights defenders, while the second reviews the case law linked to the importance of the defense of human rights and the conditions required in order to carry out this work. Meanwhile, parts three and four examine different Convention-based rights specific to human rights defenders. The fifth section includes several cases relating to the obligation to investigate when human rights defenders are victims of attempts on their life and personal integrity. The sixth section contains a specific analysis of the protection of environmentalists as human rights defenders. Lastly, the seventh section describes the measures of reparation that the Court has ordered in relation to the violation of the human rights of human rights defenders.

Case Law Bulletin of the Inter-American Court of Human Rights No. 31: Emblematic provisional measures of the IACtHR was published on November 19, 2020. This bulletin systematizes the most relevant paragraphs on the provisional measures issued by the Court. The first part describes general aspects of provisional measures. Then, the case law in relation to different groups of persons for whom the IACtHR has ordered provisional measures is presented. Lastly, the bulletin addresses issues relating to the impunity of gross human rights violations and the provisional measures issued in such cases. It is worth noting that this is the first bulletin in this series that addresses issues other than those of contentious cases and advisory opinions.

## C. Updating the Case Law Bulletins of the Inter-American Court

During 2020, eight issues of the series of IACtHR Case Law Bulletins were updated, based on recent judgments and advisory opinions issued by the Court on specific topics addressed by these publications. This updating was executed based on a contribution from Germany, through the GIZ cooperation agency.

On April 17, 2020, three updated issues were published: Case Law Bulletins of the Inter-American Court Nos. 1, 2 and 3 corresponding to the topics: "Death penalty," "Migrants and refugees" and "Displaced persons."

On May 6, 2020, the updated versions were published of Case Law Bulletins No. 6 and No. 9 on "Forced disappearance" and "Persons deprived of liberty."

On May 22, the updated version was published of Case Law Bulletin of the Inter-American Court No. 8 on "Personal liberty."

Shortly afterwards, on May 28, the updated version was published of Case Law Bulletin of the Inter-American Court No. 12 on "Due process."

Lastly, on May 29, Case Law Bulletin No. 15 of the series, on "Transitional justice," was published.

## D. Infographics Series

During 2020, a series of Infographics was developed in order to make inter-American law on different issues more accessible. The purpose of the Infographics is to resume, through graphic visual representations, the main aspects of a judgment or advisory opinion of the IACtHR, allowing non-lawyers to obtain a thorough understanding of their scope and the rights involved. They are also intended to provide a didactic explanation of the principal standards on different matters applicable to the current situation, taking into account the case law of the Inter-American Court of Human Rights.

On May 8, 2020, in keeping with Statement 1/2020 "COVID-19 and Human Rights: The problems and challenges that must be addressed from the perspective of human rights and respect for international obligations," the Inter-American Court of Human Rights presented a series of Infographics on "COVID-19 and the right to health." The series of Infographics was prepared by the Inter-American Court of Human Rights, in conjunction with the Max Planck Institute for Comparative Public Law and International Law and the Institute for Constitutional Studies of the state of Querétaro, and its purpose is to provide a didactic explanation of the principal standards of the right to health applicable to the current situation, taking into account the case law of the Inter-American Court of Human Rights.

On June 23, 2020, the Inter-American Court of Human Rights presented an Infographic on Advisory Opinion 25 concerning the institution of asylum and its recognition by the inter-American system issued on May 30, 2018. The Infographic was prepared in conjunction with the Sin Fronteras organization, the United Nations High Commissioner for Refugees (UNHCR0, and the Institute for Constitutional Studies of the state of Querétaro.

On November 2, 2020, the Inter-American Court of Human Rights, the Max Planck Institute for Comparative Public Law and International Law and the Institute for Constitutional Studies of the state of Querétaro, Mexico published the Infographic of the judgment of February 6, 2020, in the *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina.*


COVID-19
Y EL DERECHO
A LA SALUD
Corte IDH
Protegiendo Derechos
MAX PLANCK INSTITUTE


OPINIÓN CONSULTIVA 25
LA INSTITUCIÓN DEL ASILO
SU RECONOCIMIENTO
SISTEMA INTERAMERICANO
Corte Interamericana de Derechos Humanos
Emitida el 30 de mayo de 2018


Corte IDH
Protegiendo Derechos
MAX PLANCK INSTITUTE
CASO
COMUNIDADES INDÍGENAS
MIEMBROS DE LA ASOCIACIÓN
LHAKA HONHAT
(NUESTRA TIERRA) VS.
ARGENTINA

# Communications

# XV. Communications

The Inter-American Court has given emphasis to the development of a communication strategy that provides a greater social legitimacy to its work vis-a-vis a diverse map of audiences.

## A. The Inter-American Court's new website

New Website. We have created and launched the Inter-American Human Rights Webpage, the Spanish version of which can be visited at: www.corteidh.or.cr and the English version at www.corteidh.or.cr/index.cfm?lang=en and the Portuguese version will also be made available.

The Court's case law is presented via an interactive map where the Inter-American Court's actions in each of the countries that have ratified the American Convention on Human Rights can be consulted.

The webpage also has audiovisual contents so that, using simple language, anyone can understand the different functions of the Inter-American Court. These contents include subtitles for the videos and explanatory audio guides for persons with any type of disability.

Audiovisual reports on the cases decided by the IACtHR and that are now at the stage of monitoring compliance with judgment are published on the new webpage.

## B. Multilingual communication, in Spanish, English and Portuguese

Website contents, press releases and the contents for the Court's social networks and institutional newsletter are produced in Spanish, English and Portuguese.
During 2020, the production of Press Releases increased by 73% and the new section of Institutional News on the inter-American system for the protection of human rights was implemented.

The database was updated of specialized human rights audiences at the global level with more than 49,000 contacts to date, classified by country and type of audience who receive press releases, and the newsletter.

The NEWSLETTER "Protecting Rights" (Spanish, English, Portuguese) was created and is distributed to specialized audiences on issues of human rights around the world. To date five Newsletters have been published, and the sixth is scheduled for release before the end of 2020.


## C. Educational Communication

We have implemented the Project: #Datos #DerechosHumanos under which, using Infographics and Videographics, the work of the IACourtHR and its case law are explained.


**Animated videos** have been created that present, in a simple didactic manner, different basic aspects of the work and functioning of the Inter-American Court of Human Rights. The contents are created based on the main inquiries received by the Court.

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Under an agreement with the Inter-American Children's Institute, audiovisual material has been prepared together with a network of children and adolescents.

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## D. Production of reports on monitoring compliance with judgments

The series of micro reports #ReparandoDerechos has been created compiling the testimony of individuals and organizations involved in cases at the stage of monitoring compliance using micro testimonial videos and reports. The reports have already been translated into Portuguese and will be incorporated into the website in this language.



## E. Livestreaming

The public hearings of the IACtHR have been held virtually, and livestreamed on the social networks Twitter, Facebook and YouTube, reaching hundreds of thousands of people.

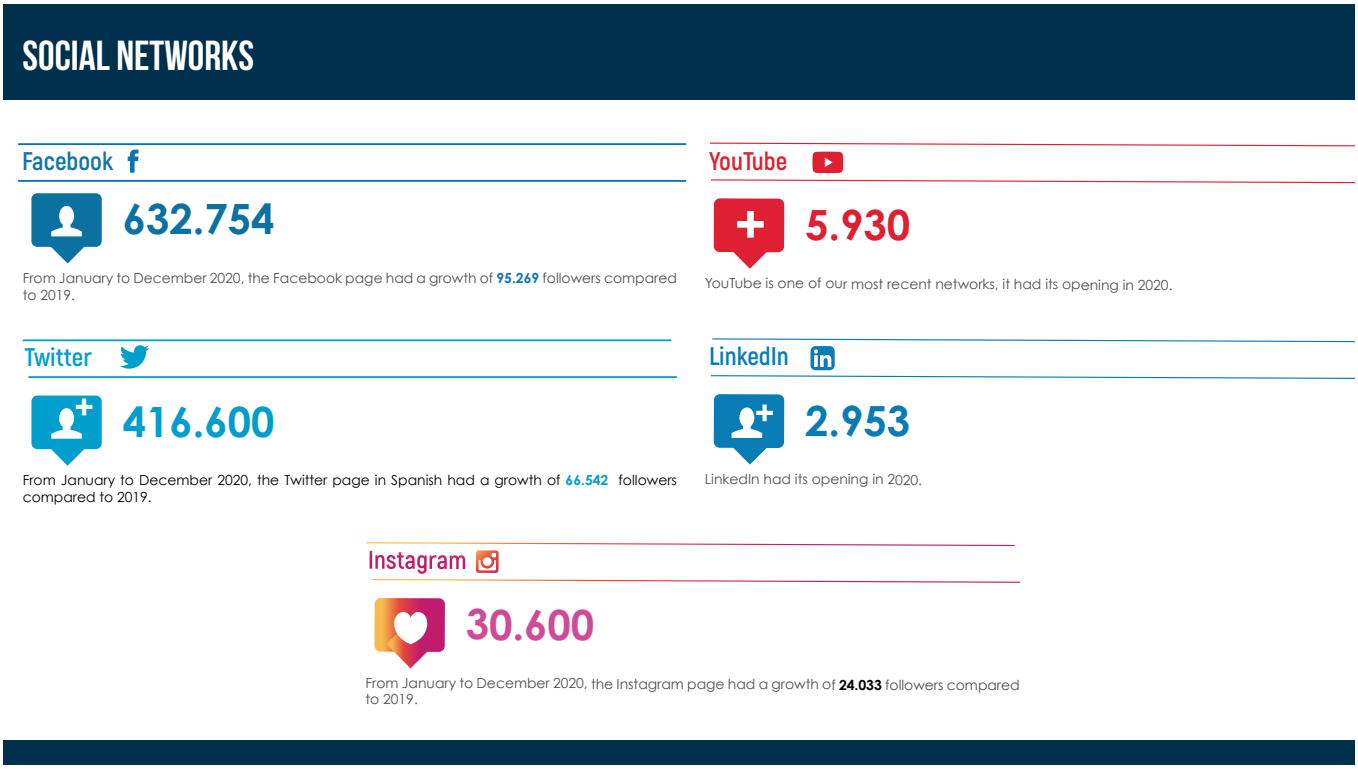
## F. Social Networks

The Court also uses social networking to disseminate its activities, and this allows for a dynamic and effective interaction with users of the inter-American system. The Court has Facebook, Twitter, Instagram, Linkedin, Youtube, WhatsApp and Academia. Accounts. The number of followers of these mechanisms has increased considerably over the past year, as has the production of specific contents for the social networks such as videos, infographics, podcasts, etc.

The Facebook account had 632,754 followers, 95,269 more than in 2019. Also, the Twitter account now has more than 413,500 followers, 863,500 more than in 2019.

The Instagram account has 29,500 followers, 23,000 more than in 2019. Also, new accounts have been opened with Youtube, Linkedin and Academia that allow the Court to interact with new users.

These numbers reveal the significant interest that the public has in reading and sharing the contents of the Inter-American Court's publications. These publications relate to all the activities of this Court, including press releases, judgments handed down and orders issued, the livestreaming of hearings, and academic activities.




CLAIM **#ProtegiendoDerechos** has been established, producing videos, infographics, photographs and diverse content on the social networks: Facebook, Twitter, Instagram, LinkedIn, YouTube y Vimeo. This has substantially increased the reach of the Inter-American Court's publications on it social networks.

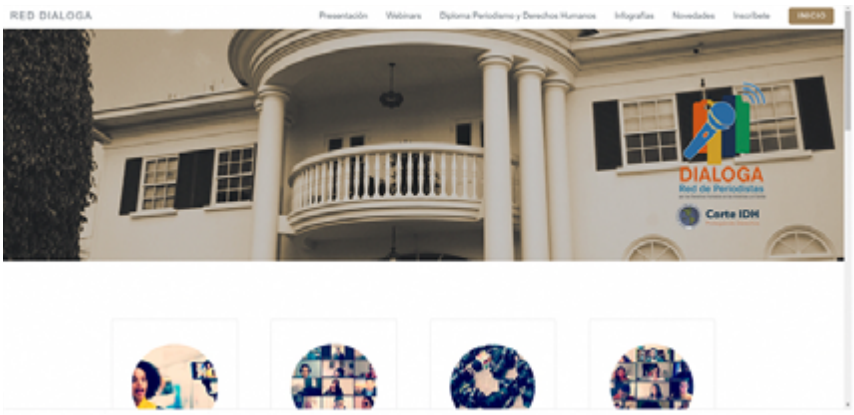
We have produced the Podcast **#ProtegiendoDerechos** on a weekly basis with information on the Court's case law, as well as on its activities, and it is distributed via our social networks.

## G. DIALOGA Network and Journalists diploma course

The first edition of the diploma course on "Human Rights for Journalists" has been held with the participation of 70 journalists selected from among more than 1, 400 candidates and they received the corresponding diploma. The Court's President and judges, and also its lawyers took part in the course.

We have established the #DIALOGA Journalists Network with more than 3,000 journalists in Latin America and the Caribbean who are connected by information on issues linked to the work of the IACtHR in the region.
The DIALOGA web platform has been created: https://www.corteidh.or.cr/tablas/dialoga/index.html where journalist can find useful information on issues linked to the work of the Inter-American Court, and also able to participate,

sharing journalistic production on the case law of the IACtHR.




## H. COVID-19 and Human Rights Center

Given the current situation, the COVID-19 and Human Rights Information Center was created and implemented with updated information on the issue: www.corteidh.or.cr/tablas/centro-covid/index.html.

# Agreements and Relations with other entities

# XVI. Agreements and Relations with other entities

## Agreements with national bodies

The Court signed framework cooperation agreements with various entities under which the signatories agreed to carry out the following activities, inter alia: (i) to organize and implement training events, such as congresses, seminars, conferences, academic forums, colloquiums and symposiums; (ii) to provide specialized internships and professional visits by national officials to the seat of the Inter-American Court of Human Rights; (iii) to conduct joint research activities; (iv) to make available to the national entities the Inter-American Court's advanced human rights search engine on human rights.

- the National Judicial Council of Brazil
- the Uruguayan Legislature
- the Ecuadorian Ombudsman

## Agreements with civil society organizations

The Court signed agreements with national and international professional associations in order to, inter alia: (i) to organize and implement training events, such as congresses, seminars, conferences, academic forums, colloquiums and symposiums, and (ii) to provide specialized internships and professional visits to the seat of the Inter-American Court of Human Rights.

- the Costa Rican Lawyers' Professional Association
- the World Association of Community Broadcasters: Latin America and the Caribbean
- the MERCOSUR Council of Lawyers' Professional Associations

## Agreements with universities

The Court signed framework cooperation agreements and agreements with a series of 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.

- Universidad Autónoma de Puebla, Mexico
- Universidad Gerardo Barrios, El Salvador
- Universidad Privada Antenor Orrego, Peru
- Universidad de Catamarca, Argentina
- Instituto Universitario Nacional de Derechos Humanos Madres de Plaza de Mayo, Argentina
- Universidad Pablo Olavide, Spain
- Universidad Privada del Valle, Bolivia
- Binghamton University, New York, USA

# Library

# XVII. Library

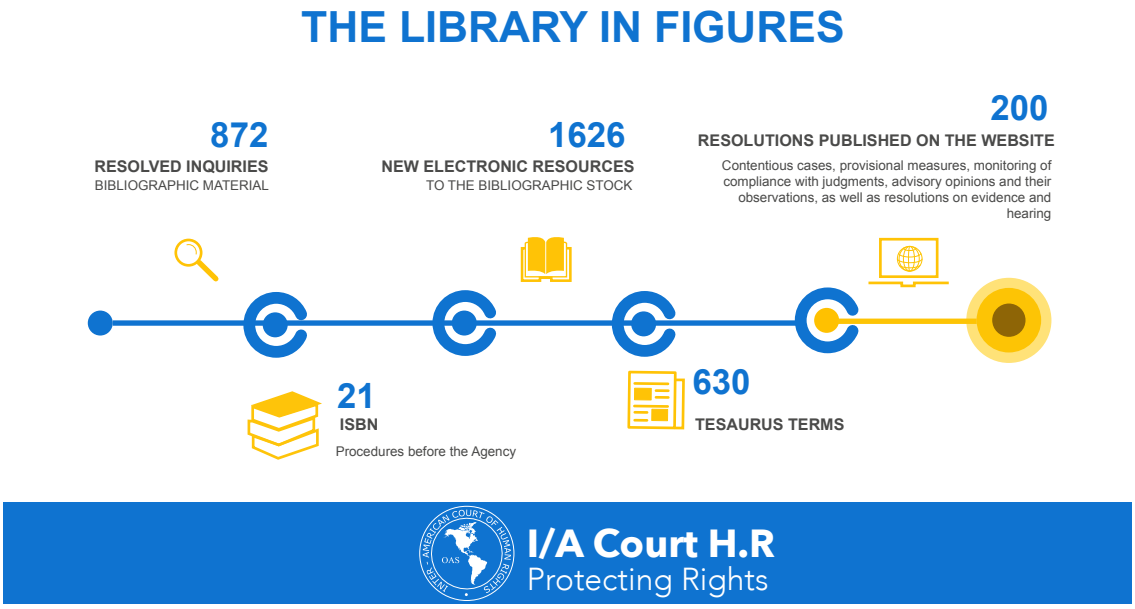
*** The Inter-American Court 's Area of Information and Knowledge Management is composed of the Library and the Archives.**

## A. Library

Founded in 1981, the Inter-American Court's Library provides information services, in particular the selective dissemination of information, the preparation of specialized bibliographies, guided visits to the collections, introduction courses to the use of the catalogue, and database searches.

It coordinates the research visits and loans out materials on site, to take home, or by agreements with other information units. It is also responsible for the public of case law on the website and processing ISBN and ISSN for the Court's publications.

During 2020, the Library responded to 872 inquiries which were received by different means of communication: mail, telephone and social networks; published 200 orders in contentious cases, provisional measures, monitoring compliance with judgment, advisory opinions and observations, as well as orders on evidence and hearings.




During the year, 1,626 electronic resources were entered into library's collections.

The Library also provided logistical and bibliographical support, during six different online training sessions offered by the Inter-American Court on the distance education platform, Evolcampus:

- Diploma course on recent developments in the case law of the Inter-American Court of Human Rights (Guatemala)
- Diploma course on recent developments in the case law of the Inter-American Court of Human Rights (Honduras)

- Training course on human rights for non-lawyers in Central America (1st ed.)
- Training course on human rights for non-lawyers in Central America (2nd ed.)
- Initial training program for aspiring members of the Judiciary (FIAJ)
- Manual on the creation, use, updating and filing of the Court's files (1st ed.)

## B. Archive

In 2013, under the project for the internal electronic processing of briefs presented to the Court, the Archives were created, implementing the use of the digital file, the procedure of uploading inactive files, and the publication of the principal briefs in contentious cases on the Court's website. In addition, it receives and registers the briefs submitted to the Court by the parties. It also carries out the process of uploading briefs received on paper, and the review and uploading of pre-2014 inactive files.

During the year, 3,787 briefs of the cases were registered and incorporated into the electronic files; 22,024 folios were uploaded; 50 electronic files were created on contentious cases, provisional measures, advisory opinions and monitoring compliance with judgment.

In addition, 565 questions were answered on the briefs and files received by different means and the loan of nine physical dossiers was arranged.

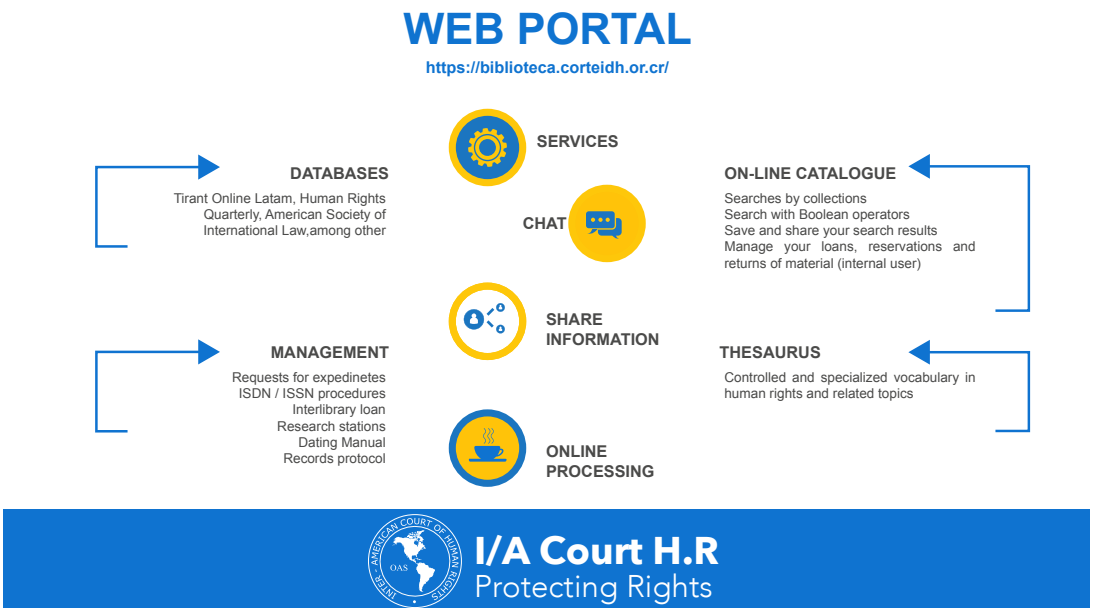
Lastly, a total of 216 official citations, were reviewed and updated, 55,161 folios were revised, and five certifications of pre-2014 files were issued.

## C. Library Web Section

In 2020 and in order to ensure access to information resources and minimize the impact of the health emergency, the Area of Information and Knowledge Management made available a new website: https://biblioteca.corteidh.or.cr/, where users can consult the online catalogue and the thesaurus, request research visits and inter-library loans, and consult the databases, among other advantages. It includes forms to request files, bibliographical material and specialized advice.

## D. Online Catalogue

The online catalogue possesses more than 37,000 bibliographic resources, and features the new organization by collections, the use of Boolean operators, functions that allow the users to keep and share bibliographical search results on social networks and instant messengers. It also allows the officials of the Inter-American Court to manage the reservation, loan and return of bibliographical material.




## E. Digesto

The DIGESTO is an advanced tool for access to the provisions of the American Convention on Human Rights in light of the Court's case law. It contains all the Court's legal rulings, arranged according to the rights and obligations of the American Convention that case law has referred to most frequently. It has been brought up to date with all the case law related to Articles 1, 2, 4, 5, 8, 21, 24, 25 and 26 up until May 2020.

The THEMIS methodology is a joint effort by the Legal Area of the IACtHR and the Regional international law and access to justice in Latin America (DIRAJus II) program of the German cooperation agency, GIZ.

The information can be consulted here: http://www.corteidh.or.cr/cf/themis/digesto/

## F. Collections and Databases

The Library has an important collection of specialized literature, consisting of more than 37,323 volumes on diverse topics relating to human rights and similar issues. The library is subscribed to around 568 periodic publications. Its collection is most composed of publications on different areas of law, including legal doctrine, case law and human rights reports.

# Officials of the Inter-American Court of Human Rights

# XVIII. Officials of the Inter-American Court of Human Rights

## Secretary

Pablo Saavedra Alessandri

## Deputy Secretary

Romina I. Sijniensky

## Legal Affairs Director

Alexei Julio Estrada

## Director of Administration and Finance

Arturo Herrera Porras

### Lawyers

Ana Lucía Aguirre Garabito
Amelia Brenes Barahona
Marta Cabrera Marín
Agostina Cichero
Julio César Cordón Aguilar
Jorge Errandonea Medin
Ana Belém García Chavarría
Pablo González Domínguez
Rita Lamy Freund
Agustin Martín
Ariana Macaya Lizano
María Gabriela Pacheco Árias
Bruno Rodríguez Reveggino
Celeste Salomé Novelli
Auxiliadora Solano Monge
Patricia Tarre Moser
Astrid Orjuela

### Assistants

J. Nayib Campos Salazar
Adolfo Lara Aguilar
Cristhian Esteban Molina Delgado
Tsáitami Ordóñez Araya
Steven Orozco Araya
Jose Daniel Rodríguez Orúe
Diana Rucavado Rojas
María del Milagro Valderde Jiménez
Gloriana von Herold Maklouf
Dominique von Köller Agüero

### Secretaries

Alicia Campos Cordero
Marlyn Campos Vásquez
Sandra Lewis Fisher
Paula Cristina Lizano Carvajal
Yerlin Tatiana Urbina Álvarez

### Training programs and International Cooperation

Mariana Castillo Rojas
Javier Mariezcurrena
Fidel Gómez Fontecha
Ana Lucía Ugalde Jiménez

### Administration

Viviana Castillo Redondo
Christian Mejía Redondo
Siria Moya Carvajal
Claudio Pereira Elizondo
José Bernardo Sagot Muñoz
Tatiana Villalobos Rojas
Laura Villalta Herrera

### Accounting

Johana Barquero Mata
Marta Hernández Sánchez
Pamela Jiménez Valerín
Marcela Méndez Díaz

### Information and Knowledge Management

Jessica Mabel Fernández Castro
Francella Hernández Mora
Esteban Montanaro Ching
Ignacio Murillo Henderson
Ana Rita Ramírez Azofeifa
Magda Ramírez Sandí
Sofía Rodríguez Ramírez
Hannia Sánchez López
Víctor Manuel Valverde Castro

### Communications

Patricia Calderón Jiménez
Matías Ponce Martínez
Julliana Saborío Arguedas
María Gabriela Sancho Guevara

### Information Technology

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Josué Calvo Conejo
Johnny Espinoza Quirós
Steven Quesada Delgado
Bryan Rojas Fernández
Marjorie Subero Martínez
Douglas Valverde Fallas

### Human Resources

Andrea Fallas Bogantes
Marco Antonio Ortega Guevara


I/A Court H.R.
Protecting Rights

# Annual Report
# 2020