

**ORDER OF THE PRESIDENT OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

OF MARCH 20, 2012

CASE OF GUDIEL ÁLVAREZ *ET AL* v. GUATEMALA

HAVING SEEN:

1. The brief submitting the case filed by the Inter-American Commission on Human Rights (hereinafter, "the Inter-American Commission" or "the Commission") with the Inter-American Court of Human Rights (hereinafter, "the Inter-American Court", "the Court" or "the Tribunal") on February 18, 2011, and the annexes thereto, by means of which it offered three expert opinions.

2. The brief containing pleadings, motions and evidence (hereinafter, the "brief of pleadings and motions") submitted by the representatives of the alleged victims (hereinafter, also the "representatives") of July 11, 2011 and the annexes thereto, in which they offered six statements of the alleged victims and seven expert opinions.¹ One expert witness has not been identified. Finally, they requested the Court to order the State to present the testimony of Mr. Adolfo Lopez, deputy prosecutor of the Public Prosecutors' Office.

3. The note of the Secretariat of the Inter-American Court (hereinafter, the "Secretariat") of July 26, 2011, by means of which, on the instructions of the President of the Tribunal, the representatives were required to present, no later than August 9, 2011, the identity of the unidentified expert witness and his or her *curriculum vitae*, among other piece of information.

4. The brief containing the answer of the brief submitting the case and of observations to the brief of pleadings and motions (hereinafter, "brief containing the answer") filed by the Republic of Guatemala (hereinafter, also the "State" or "Guatemala") on October 18, 2011, and the annexes thereto, by means of which it offered two expert opinions.

5. The notes of the Secretariat of the Inter-American Court of November 1, 2011, by means of which, on the instructions of the President and according to

¹ The alleged victims in the instant case appointed *Fundación Myrna Mack* and the International Human Rights Law Clinic, of the UC Berkeley School of Law (IHRLC) as their representatives.

article 46.1 of the Rules of Procedure of the Tribunal ² (hereinafter, the "Rules of Procedure"), the Commission, the representatives and the State were requested, *inter alia*, to forward, no later than November 16, 2011, their respective definitive lists of declarants (hereinafter, the "definitive lists") and, based on the principle of procedural economy, indicate which declarants can render their statements or expert opinions through affidavit.

6. The briefs of November 16, 2011, by means of which the Inter-American Commission and the representatives requested an extension of seven and five days, respectively, to present the definitive lists.

7. The brief of November 17, 2011, by means of which the State forwarded its definitive list, confirmed the two proposed persons and indicated that both of them could be summoned to the public hearing.

8. The Secretariat's notes of November 18, 2011, by means of which, on the President's instructions, the Inter-American Commission and the representatives were granted until November 21, 2011, to forward their definitive lists.

9. The briefs of November 21, 2011, by which the Inter-American Commission and the representatives forwarded the definitive lists. The Commission confirmed the item of expert evidence previously offered and indicated that two expert witnesses could be summoned to the public hearing and the third one could render his opinion through affidavit. The representatives confirmed six alleged victims and six expert witnesses and they pointed out that three alleged victims and two expert witnesses could be summoned to the public hearing, while three alleged victims and four expert witnesses could render their statements through affidavits.

10. The Secretariat's note of November 22, 2011, by means of which the Tribunal transmitted the definitive lists to the parties and informed them that they had until December 2, 2011, to present the observations they deem pertinent.

11. The briefs of November 2, 2011, by which the Inter-American Commission and the representatives forwarded their respective observations to the definitive lists. The Commission indicated that it had no observations regarding the definitive lists presented by the State and the representatives and requested the Tribunal the possibility of interrogating the declarants proposed by Guatemala and an expert witness proposed by the representatives. Moreover, the representatives indicated that they had no observations to the definitive list of the Commission; however, regarding the list of the State: a) they noted that, at first, Guatemala proposed two persons as expert witnesses and then, in its definitive list, it did not clarify the capacity in which they were offered, and b) they indicated, also, that said persons could not act in the capacity as expert witnesses, due to their subordinate relation to the State given that they are civil servants and both of them had intervened, at the domestic level, in this case. Therefore, they requested the Tribunal to clarify whether said persons would render statements in the capacity as witnesses. In addition, they preliminarily informed on findings allegedly related to the case and requested the Court to include an additional witness to said facts.

12. The brief of December 16, 2011, and the annexes thereto, by which the representatives forwarded information and documents on alleged supervening facts and reiterated the request to include one more witness in their offer of declarants to be summoned to the hearing.

² Rules of Procedure approved by the Court during its LXXXV Ordinary Period of Sessions, held from November 16 to 28, 2009.

13. The Secretariat's notes of December 21, 2011, by means of which, on the President's instructions and based on the terms of article 57.2 of the Rules of Procedure, the Tribunal granted the State and the Inter-American Commission a time limit to forward the observations they deem pertinent regarding the facts informed by the representatives.

14. The brief of January 25, 2012, by which the State indicated that "it had no objection to the Tribunal's admission of additional information presented by the representatives[,] and admission of [Mr.] Fredy Peccerelli as witness".

CONSIDERING THAT:

1. The offering and admission of evidence, as well as the convocation of alleged victims, witnesses and expert witnesses are governed by articles 35.1.f, 40.2.c, 41.1.c, 46, 50, and 57 of the Tribunal's Rules of Procedure.

2. The Commission offered three expert witnesses as items of evidence; the representatives offered the statements of six alleged victims, a witness and six expert witnesses; and the State offered two declarants.

3. The Court ensured the parties the right to defense regarding the evidence offered in the brief submitting the case, the brief of pleadings and motions and the brief containing the answer, as well as in their definitive lists and those briefs related to alleged new facts.

4. As to the statements offered by the parties, which have not been objected, this President considers it is convenient to take such evidence in order for the Tribunal to assess on it in time fashion and on the basis of the existing body of evidence and sound judgment. This Presidency shall define the object of these statements and the manner in which they shall be received in this Order (*infra* operative paragraphs 1 and 5).

5. Next, this Presidency shall address the following aspects: a) item of evidence offered by the Inter-American Commission; b) item of evidence offered by the representatives and request of the Inter-American Commission to question; c) item of evidence offered by the State and request of the Inter-American Commission to make questions; d) manner of the statements and expert opinions; e) arguments and final oral and written observations; f) offering of actuarial study by the State and g) testimonies and expert opinions attached as annexes to the brief of pleadings and motions.

A. Items of evidence offered by the Inter-American Commission

6. According to the terms of article 35.1.f of the Rules of Procedure, "the possible appointment of expert witnesses" may be made by the Inter-American Commission "when the Inter-American public order of human rights is affected in a significant manner", the object of which must be adequately founded. This provision means that the appointment of expert witnesses by the Commission is an exceptional opportunity that is subject to a requirement, which is not satisfied by the mere fact that the item of evidence to be received is related to an alleged human rights violation. The "Inter-American public order of human rights must be affected in a significant manner," and it falls upon the Commission to uphold such a situation.³

³ See *Case of Pedro Miguel Vera Vera et al V. Ecuador*. Order of the President of the Inter-

7. The Inter-American Commission offered, as evidence, the expert opinions of: a) Carlos Castresana Fernández, who shall render a statement “on the structural circumstances existing in Guatemala that foster impunity in cases like the instant one. Among other aspects, the expert witness shall refer to the clandestine structures of the armed conflict, its infiltration in the institutions and the cooptation of the justice system”; b) Pedro E. Díaz Romero, who shall render a statement about “the circumstances that had fostered impunity in the instant case, by means of the analysis of the investigations carried out at the domestic level and their adaptation to the international human rights standards applicable to the obligation to investigate in a serious and diligent manner, including the follow-up of logical lines of investigations” and c) Ernesto Villanueva Villanueva, who shall refer to “the access to public information in Guatemala, especially the information contained in the files of the intelligence service, the Armed Forces and the Police, historically speaking and as from the enactment of the 2008 Act on Access to Public Information, from the perspective of the international law and the international good practices”.

8. The State and the representatives did not present objections to the three expert opinions offered by the Inter-American Commission.

9. The Commission considered that the three expert opinions relate to the international public order and that the instant case “is paradigmatic in its different components, both in terms of impunity as well as access to information. In addition, they do not only relate to the rights of the victims but of the society in general”. Regarding the expert opinions of Carlos Castresana Fernández and Pedro E. Díaz Romero, it further indicated that “they would start from the international human rights standards applicable to serious situations of impunity and the State’s obligations in terms of investigation and punishment of the responsible for human rights violations in contexts of armed conflict. Those standards go beyond the situation of the victims of the case and may have an impact on the approach of serious situations of impunity in other States of the region”. It further alleged that the expert opinion of Carlos Castresana Fernández “will provide the Tribunal with the possibility of identifying the challenges of situations of structural impunity and the way in which States must respond to such challenges”. In addition, as to the expert opinion of Ernesto Villanueva Villanueva, it indicated that apart from putting forward the picture of the situation in Guatemala, it shall provide essential elements in terms of international standards on the right to access to information in general, as well as the importance of the access to information regarding human rights matters. Moreover, the expert witness shall provide the Court with the starting points to identify good practices regarding most recent issues existing in several countries of the region, which is the delivery of information related to transitional or post-conflict processes.

10. In relation to two of the expert opinions offered, this Presidency notes that, without detriment to what was indicated by the Commission regarding the possible connection with the international public order, their objects are substantially and specifically limited to the particular situation of Guatemala and the instant case. In fact, while one of them is related to the reality of that country, like the “structural circumstances in Guatemala that foster impunity”, the other expert opinion refers to the specific circumstances “that had contributed to the impunity in the instant case”. Therefore, the President considers that it is not pertinent to admit the expert

American Court of Human Rights of December 23, 2010. Considering clause nine. *Case of Pacheco Teruel et al V. Honduras*. Order of the President of the Inter-American Court of Human Rights of January 27, 2012, Considering clause three.

opinions of Carlos Castresana Fernandez and Pedro E. Diaz Romero offered by the Inter-American Commission.

11. As to the expert opinion of Ernesto Villanueva Villanueva, even though its object, as defined by the Commission, refers to the access to public information in Guatemala, the President deems that the opinion of the expert witness may be useful and pertinent if it is limited to the perspective of the international law and the international good practices regarding access to public information contained in files of the intelligence service, the armed forces and the police based on domestic laws on the access to public information. By limiting its object to such aspect, said expert opinion relates to an issue that may have an impact on phenomena occurring in other States Parties to the Convention and that goes beyond the specific facts of this case and the specific interest of the parties to the case, this is an issue that significantly affects the Inter-American public order. This Presidency shall exercise its authority to define the object of the expert opinion, in such a way that it will make the necessary modifications in order to reflect the previous considerations. Based on the foregoing, the President deems pertinent to admit the expert opinion of Ernesto Villanueva Villanueva, proposed by the Inter-American Commission, and recalls that the value of said opinion shall be assessed in time fashion, within the context of the existing body of evidence and sound judgment. The object and receipt of said testimony shall be defined in the operative paragraphs of this Order (*infra* Operative Paragraph 1).

B. Items of evidence offered by the representatives and Commission's request to make questions

12. The representatives of the alleged victims offered, in the definitive lists, the statements of Wendy Santizo Méndez, Ismael Salanic, Efraín García, Natalia Gálvez, Carla Alvarado and Froilana Armira, as well as the expert opinions of Katherine Temple Doyle, Carlos Martin Bersistain, Carlos Castresana Fernández, Bernardo R. Morales Figueroa, Silvio René Gramajo Valdés and Alejandro Valencia Villa. By means of subsequent briefs, they proposed the testimony of Fredy Peccerelli (*supra* Having Seen clauses 11 and 12). In this respect, the following issues shall be addressed: a) withdrawal of an expert witness designation and of a request for evidence to the State; b) modifications in the objects of the statements of the alleged victims and expert witnesses; c) Commission's request to interrogate; and d) admission of Mr. Peccerelli as witness.

13. In the first place, the representatives did not include, in their definitive lists, an expert witness to be identified, proposed in the brief of pleadings and motions (*supra* Having Seen clause 2). In this respect, the Presidency notes that, according to article 46.1 of the Rules of Procedure, the appropriate procedural moment for the representatives to confirm or retract offers of evidence submitted in the brief of pleadings and motions is the definitive list requested by the Tribunal. Therefore, by not confirming, in the definitive list, the expert opinion indicated, expert's designation was withdrawn by the representatives at the appropriate procedural moment. Moreover, the representatives also withdrew, in their definitive list, the request for the Court to order the State to present a witness (*supra* Having Seen clause 2). The President takes note of said withdrawals.

14. In the second place, the representatives offered, in their definitive list, the statement of six alleged victims, modifying the initial object of such statements. In the case of Wendy Santizo Mendez, they had initially pointed out that the object of her statement would be "her experience, her survival in relation to the torture and rape", and they later indicated that it would refer to "the circumstances of the disappearance of her mother, [...] and her rape, torture and abduction, the impact of these violations on her and her family, and the fight against impunity, including

her leadership in an organization made up of children of disappeared parents". In the case of Ismael Salanic, Efraín García, Natalia Gálvez, Carla Alvarado and Froilana Armira, they pointed out, at first, that their statements would respectively refer to "the fight from the beginning of GAM [Grupo de Apoyo Mutuo] to the present", "the consequences of the disappearance of his daughter", "her experience [and] the fight of her husband at GAM in order to find their son", "[her] personal experience, her mother's experience and the tireless fight of her grandmother" and "the consequences of the disappearance of her two brothers, the destruction of her family, the internal migration and the cultural implications". In the definitive list, the representatives unified the phrasing of the objects under the following common title: "the way in which the facts occurred before, during and after the disappearance of [their] relatives, the impact of the disappearance on [them] and their family, and their fight against impunity".

15. This Presidency considers that, even though the representatives made some changes in the objects of the statements of the alleged victims, said modifications do not affect the essential content thereof. Moreover, the changes were not objected by the State or the Commission. Based on the foregoing, it is pertinent to admit the statements of Wendy Santizo Méndez, Ismael Salanic, Efraín García, Natalia Gálvez, Carla Alvarado and Froilana Armira. Likewise, the Court notes modifications in the objects of the statements of Katherine Temple Doyle and Carlos Castresana Fernández. However, such modifications are minor and they do not alter the contents thereof, for which it is pertinent to admit them. The Court shall assess such statements and expert opinions in time fashion, within the context of the existing body of evidence and on the basis of sound judgment. The object and receipt of said statements shall be defined in the operative paragraphs of this Order (*infra* Operative Paragraphs 1 and 5).

16. As to the Inter-American Commission's request to interrogate expert witness Doyle, the Presidency recalls that, according to article 52.3 of the Rules of Procedure, said body may interrogate, at the hearing, expert witnesses proposed by the other parties when the Inter-American public order of human rights is affected in a significant manner and the statement in question regards a topic included in the statement of an expert witness offered by the Commission. In this respect, even though the opinion of expert witness Doyle relates to the issue of access to information contained, in part, in the expert opinion of Mr. Villanueva Villanueva, the object of the expert opinion of the former specifically refers to the instant case and Guatemala, for which it is not related to issues of the Inter-American public order. Therefore, it is not appropriate to admit the request made by the Inter-American Commission.

17. Lastly, the representatives, after forwarding their definitive list, offered Mr. Peccerelli as witness in order for him to refer to alleged supervening facts. Given that it is a testimony regarding a fact that had occurred after the submission of the brief of pleadings and motions and considering that the State indicated that it had no objection thereto (*supra* Having Seen clauses 11, 12 and 14), based on Article 57.2, the Court admits said testimony. The object and receipt of said testimony shall be defined in the operative paragraphs of this Order (*infra* Operative Paragraph 1).

C. Items of evidence offered by the State and Commission's request to interrogate

18. The State proposed Manuel Giovanni Vásquez Vicente and Marco Tulio Álvarez Bobadilla to be summoned to the hearing, who were, at first, offered as expert witnesses and later on, as "declarants". Regarding the first of them, Guatemala indicated that the object of his statement would refer to "the

proceedings carried out by the State in order to investigate, prosecute and punish the responsible for the forced disappearance of the 26 disappeared persons and the search for their mortal remains, as well as the investigation into the illegal detention and subsequent execution of Rudy Gustavo Figueroa Muñoz and the illegal detention, torture and rape of Wendy Santizo Mendez". As to the second one, it indicated that the object of his statement would deal with "the actions taken by the State [...] through the Secretariat for Peace in relation to the declassification of state files that contribute to the historical clarification; the dissemination and publication of *Diario Militar*; and the expert opinions rendered in support of the investigations of the Public Prosecutor's Office, addressed to promote [the] clarification of the cases involving human rights violations committed during the internal armed conflict". In the definitive list, Guatemala slightly changed the first part of the object of this last statement and eliminated a word from the object of the first statement. The rest of the objects are identical to the ones initially offered.

19. The Commission indicated that it had no objections to make in that regard. The representatives requested the Court to clarify whether the declarants proposed by the State would act in the capacity of expert witnesses or witnesses. They indicated that both of them are subordinates of the State since they are civil servants and both of them had intervened, at the domestic level, in the instant case, which may affect their impartiality (*supra* Having Seen clause 11). However, they considered that they may provide valuable information to shed light on the violations committed in the instant case, for which they requested the Court to admit them as witnesses in order to render a statement.

20. In the first place, this Presidency notes that, even though the State made changes in the first part of the object of the expert opinion of Mr. Marco Tulio Álvarez Bobadilla and eliminated a word from the expert opinion of Manuel Giovanni Vásquez Vicente, said modifications were formal and they do not alter their content. In the second place, even though in the brief containing the answer, the State referred to the offering of said statements as expert evidence, in the definitive list, it referred to them as "declarants". In this respect, this Presidency notes that, from the objects of said statements, it spring that those persons shall render a statement about facts and circumstances they know for a fact, for which their statements shall be received as testimonies and not expert opinions. Consequently, the Presidency admits the testimony of Manuel Giovanni Vásquez Vicente and Marco Tulio Alvarez Bobadilla and recalls that the value of said testimonies shall be assessed in time fashion, within the context of the existing body of evidence and on the basis of sound judgment. The object and receipt of said statements shall be defined in the operative paragraphs of this Order (*infra* Operative Paragraphs 1 and 5).

21. In relation to the request of the Inter-American Commission to interrogate Mr. Vásquez Vicente and Álvarez Bobadilla, the President recalls the criteria established in the Rules of Procedure in force as to the receipt of the statements proposed by the Commission, as well as in relation to the Commission's power to interrogate the declarants offered by the other parties.⁴

22. Particularly, in accordance with the terms of article 50.5 of the Court's Rules of Procedure, together with article 52.3 thereof, the Commission has the possibility of interrogating the expert witnesses proposed by the other parties once certain conditions have been fulfilled. However, the Rules of Procedure does not stipulate

⁴ See *Case of Gonzalez Medina and next-of-kin v. Dominican Republic*. Order of the President of the Inter-American Court of Human Rights, Considering clause forty-eight. *Case of Castillo Gonzalez et al V. Venezuela*, Order of the President of the Inter-American Court of Human Rights of January 31, 2012; Considering clause twenty-one.

that witnesses, proposed by the State or the representatives, may be questioned by the Commission; therefore, it is not pertinent to admit the request made by the Inter-American Commission regarding the possibility of interrogating.

D. Receipt of statements and expert opinions

23. It is necessary to ensure the most complete presentation of the facts and arguments of the parties in order to appropriately solve the issues at dispute, guaranteeing the parties the right to defend their own positions as well as the possibility of adequately dealing with the cases submitted to the consideration of the Court, bearing in mind that the number of cases is considerable higher than before and it is constantly increasing. Moreover, it is necessary to guarantee a reasonable term in the length of the proceeding, as required by the right to an effective access to justice. Based on the foregoing, it is essential to receive the higher number of testimonies and expert opinions rendered through affidavits possible and at the public hearing, listen to those alleged victims, witnesses and expert witnesses whose direct statements are truly indispensable, taking into account the circumstances of the case and the object of the testimonies and expert opinions.

D.1) Statements and expert opinions to be rendered through affidavit

24. Bearing in mind the terms stipulated in article 50.1 of the Rules of Procedure, what was indicated by the parties, the object of the statements offered, as well as the principle of procedural economy, the Presidency deems convenient to receive, by means of statements rendered through affidavit, the expert opinion of Ernesto Villanueva Villanueva, offered by the Commission; the expert opinions of Carlos Castresana Fernández; Carlos Martin Beristain; Bernardo R. Morales Figueroa; Silvio René Gramajo Valdés and Alejandro Valencia Villa, the testimony of Fredy Peccerelli and the statements of Ismael Salanic, Natalia Gálvez, Carla Alvarado and Froilana Armira, all of them proposed by the representatives, as well as the testimony of Marco Tulio Alvarez Bobadilla, proposed by the State. The President emphasizes that article 50.5 of the Court's Rules of Procedure contemplates the possibility for the alleged victims or their representatives and the respondent State of formulating questions in writing for the declarants convened to render their statement through affidavits.

25. Pursuant to the terms of the regulatory provision so mentioned, the President proceeds to give the State and the representatives an opportunity to present, if they wish so, the questions they deem pertinent for the declarants of the opposing party referred to in the above paragraph. Upon rendering their statements through affidavits, the expert witnesses, witnesses and alleged victims must respond to such questions, unless the President decides otherwise. The corresponding time limits shall be stipulated in operative paragraph two of this Order. The expert opinions, testimonies and statement before mentioned shall be transmitted to the Commission, the representatives and the State. In turn, the State and the representatives may present the observations they deem pertinent within the time limit indicated in this Order (*infra* operative paragraph 4). The evidentiary value of said statements shall be determined in time fashion by the Tribunal, which will consider the points of view, if applicable, expressed by the representatives and the State in the exercise of their right to defense.

D.2) Statements and expert opinions to be received at the hearing

26. The proceedings in the instant case are set for the oral trial to start as to the merits, reparations and legal costs, for which the Presidency deems pertinent to convene a public hearing in order to receive the statements of alleged victims

Wendy Santizo Méndez and Efraín García and the expert opinion of Katherine Temple Doyle, proposed by the representatives, as well as the testimony of Manuel Giovanni Vásquez Vicente, proposed by the State.

E. Final oral and written arguments and observations

27. Once the statements and expert opinions have been rendered, the representatives and the State may respectively present before the Tribunal their final oral arguments regarding the merits and possible reparations and legal costs in the instant case. As established in article 51.8 of the Rules of Procedure, once the oral arguments have concluded, the Commission shall present its final observations.

28. According to article 56 of the Rules of Procedure, the alleged victims or their representatives, the State and the Commission may present their final written arguments and final written observations, respectively, in relation to the merits and possible reparations and legal costs, within the term established in Operative Paragraph thirteen of this Order.

F. Actuarial study offered by the State

29. In its brief containing the answer, the State requested the Court to assess “the possibility of conducting an actuarial study by the State [...], to provide [the Tribunal with] other relevant factors at the moment of determining a possible compensation in favor of the victims”.

30. The representatives posed a series of questions to the State’s proposal of conducting an actuarial study mentioned.

31. This Presidency deems that said study may be useful in order to determine the possible amount of the financial reparations in the instant case, for which, as evidence to facilitate adjudication of the case, in accordance with article 58.b of the Rules of Procedure, it decides to admit the proposal made by Guatemala regarding the conduct of the actuarial study. The State must present said report within the term established in operative paragraph two, which shall be transmitted to the representatives and the Commission so that they shall present, together with their final written arguments and observations at the latest, the considerations they deem pertinent.

G. Testimonies and expert opinions attached as annexes to the brief of pleadings and motions

32. Together with the brief of pleadings and motions, the representatives attached certain documents included as “testimonial evidence” and “expert evidence”. These annexes were transmitted to the Commission and the State together with the brief of pleadings and motions, and were not objected.

33. Said documents correspond to statements of alleged victims and reports on psychosocial impact of alleged victims’ relatives in the case, prepared by Mr. Carlos Beristain. In this respect, the Presidency recalls that it is the Tribunal or its Presidency who shall decide whether the statement rendered by a person or an expert opinion is pertinent to a case. Moreover, it falls upon the Tribunal or its Presidency to define the object of the statements and expert opinions offered by the parties. Consequently, given that the expert opinions and statements forwarded by the representatives were not requested by the Court or its Presidency and no object was defined in relation to them, the Tribunal considers that said statements and expert opinions are documentary evidence only and, to this end, they shall be

assessed in time fashion, within the context of the existing body of evidence and on the basis of sound judgment.⁵

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Pursuant to Articles 24.1 and 25.2 of the Statute of the Court and Articles 4, 15.1, 26.1, 31.2, 35.1, 40.2, 41.1, 45, 46, 50 to 56, 58 and 60 of the Rules of Procedure of the Tribunal,

DECIDES:

1. To require, based on the reasons established in this Order (*supra* Considering clause 23), according to the principle of procedural economy and in exercise of the authority vested in it by article 50.1 of the Court's Rules of Procedure, that the following persons render their statements through affidavit:

Alleged victims proposed by the representatives

- 1) *Ismael Salanic*, who shall render a statement about *the way in which the facts occurred before, during and after the alleged disappearance of his son, Manuel Salanic Chiguil; the alleged impact on him and his family and his fight against impunity;*
- 2) *Natalia Gálvez*, who shall render a statement about *the way in which the facts occurred before, during and after the alleged disappearance of her son, Carlos Guillermo Ramirez Galvez; the alleged impact on her and her family and her fight against impunity;*
- 3) *Carla Alvarado*, who shall render a statement about *the way in which the facts occurred before, during and after the alleged disappearance of her father, Alfonso Alvarado Palencia; the alleged impact on her and her family and her fight against impunity;*
- 4) *Froilana Armira*, who shall render a statement about *the way in which the facts occurred before, during and after the alleged disappearance of her brother and sister, Juan Pablo Armira Lopez and María Quirina Armira López; the alleged impact on her and her family and her fight against impunity.*

Witnesses

A) Proposed by the representatives

- 1) *Fredy Peccerelli*, who shall render a statement about the identification of the mortal remains of Mr. Amancio Samuel Villatoro and Sergio Saúl Linares Morales, alleged victims of the instant case; condition and place related to the finding of the mortal remains and the validity of the procedure by means of which the mortal remains were examined and identified.

⁵ Similarly, see *Case of Abrill Alosilla et al V. Peru*, Order of the Acting President of the Inter-American Court of Human Rights of September 8, 2010; Considering clause twenty-four; *Case of Furlan and relatives V. Argentina*, Order of the President of the Inter-American Court of Human rights of January 24, 2012; Considering clause eight.

B) Proposed by the State

- 2) *Marco Tulio Alvarez Bobadilla*, who shall render a statement about the experience of the work done regarding the declassification of the state files that contribute to the historical clarification; the dissemination and publication of the *Diario Militar* and the expert opinions rendered in support of the investigations conducted by the Public Prosecutor's Office, addressed to shed light on the cases involving human rights violations committed during the internal armed conflict.

Expert Witnesses

A) Proposed by the Commission

- 1) *Ernesto Villanueva Villanueva*, lawyer, who shall render an expert assessment of the perspective of the international law and the international good practices regarding the access to public information contained in the files of the intelligence service, the armed forces and the police as from domestic laws on access to public information.

Proposed by the representatives:

- 2) *Carlos Castresana Castresana*, lawyer, who shall render an expert opinion on justice administration, the domestic criminal investigations conducted in cases of human rights violations and the denial of justice in Guatemala;
- 3) *Bernardo R. Morales Figueroa*, engineer and mathematician, who shall render an expert opinion on the amount as loss of income according to what applies to the individual direct victims of the instant case;
- 4) *Silvio René Gramajo Valdés*, bachelor in communication, who shall render an expert opinion on the functioning in the practice of the law on access to information; the rules of the information offices at state entities and the use, by the State, of the definition of national security or secret information of the State;
- 5) *Alejandro Valencia Villa*, lawyer, who shall render an expert opinion on intelligence activities; patterns and operations, and
- 6) *Carlos Martín Beristain*, physician, who shall render an expert opinion on the psychological sufferings of the victims and their relatives, caused by the alleged facts of the case and the necessary measures to repair the damage.

2. To require the representatives and the State to forward, if pertinent, according to Considering clause twenty-five of this Order, and within the non-renewable term that expires on March 28, 2012, the questions they deem pertinent to ask through the Inter-American Court to the declarants offered by the opposing parties indicated in operative paragraph one of this Order. The statements and expert opinions required in operative paragraph one shall be presented no later than April 20, 2012. On that same date, the State must submit the actuarial study so offered (*supra* Considering clause 31).

3. To require the Commission, the representatives and the State to coordinate and take the necessary actions for the declarants, witnesses and expert witnesses so proposed to include, once the questions from the opposing parties have been

received, the respective answers in their statements rendered through affidavits, according to Considering clause twenty-five of this Order.

4. To order the Secretariat of the Inter-American Court, once the statements and expert opinions required in operative paragraph one have been received, to transmit them to the other parties so that the representatives and the State present, if they wish so, the observations to such statements and expert opinions together with their final written arguments, at the latest. Likewise, the Tribunal shall transmit the actuarial study offered by the State so that the Commission and the representatives present, at the same procedural opportunity, the observations they deem pertinent (*supra* Considering clause 31).

5. To convene the Republic of Guatemala, the representatives of the alleged victims and the Inter-American Commission on Human Rights to a public hearing to be held in Guayaquil, Ecuador, during the 45° Special Period of Sessions, on April 25, 2012, as from 9 a.m., to receive the final oral arguments and the final oral observations, respectively, regarding the merits and possible reparations and legal costs, as well as to receive the statements of the following people:

Alleged victims proposed by the representatives

- 1) *Wendy Santizo Méndez*, who shall render a statement about the circumstances of the alleged disappearance of her mother, Luz Haydeé Méndez Calderón and her alleged rape, torture and abduction; the impact on her and her family and her fight against impunity, including her leadership in an organization made up of children of disappeared parents; and
- 2) *Efraín García*, who shall render a statement about the way in which the facts occurred before, during and after the alleged disappearance of his daughter, Lesbia Lucrecia García Escobar; the alleged impact on him and his family and his fight against impunity;

Witness proposed by the State

- 1) *Manuel Giovanni Vásquez Vicente*, who shall render a statement about the proceedings carried out by the State in order to investigate, prosecute and punish the responsible for the forced disappearance of the 26 disappeared persons and the search for their mortal remains, as well as the investigation into the illegal detention and subsequent execution of Rudy Gustavo Figueroa Muñoz and the illegal detention, torture and rape of Wendy Santizo Mendez”.

Expert witness proposed by the representatives

- 1) *Katherine Temple Doyle*, analyst of the National Security Archives, who shall render an expert opinion on the access to information in Guatemala; the content of official documents kept under the State's custody, including the Diario Militar, the National Police Historical Archive and the Military Archives and the responsibility for the alleged forced disappearances of persons.

6. To order the Republic of Guatemala to contribute to the exit from and entrance to its territory of declarants, if they reside in it, who have been summoned by this Order to render a statement at the public hearing in this case, pursuant to the terms of Article 26.1 of the Rules of Procedure of the Court.

7. To require Ecuador, according to the terms stipulated in article 26.3 of the Rules of Procedure, to provide its assistance to conduct the public hearing in such

country, convened by means of this Order, as well as to contribute to the exit from and entrance to its territory of the persons who were summoned to render a statement before the Inter-American Court at said hearing and the people who shall represent the Inter-American Commission, the State and the alleged victims during such hearing. To such effect, the Secretariat is required to notify this Order to the State of Ecuador.

8. To require the State and the representatives to notify this Order to the declarants they proposed, who have been summoned to render a statement, according to the terms of articles 50.2 and 50.4 of the Rules of Procedure.

9. To inform the Commission, the State and the representatives that they must cover the costs generated by the production of items of evidence offered by them, in accordance with Article 60 of the Rules of Procedure.

10. To require the State and the representatives to inform the persons convened by the Court to render a statement that, according to the terms of article 54 of the Rules of Procedure, the Tribunal shall bring to the State's attention the cases in which the persons summoned to appear or declare before the Court fails to appear or refuses to render a statement without legitimate cause, or the cases in which, in the opinion of the Court, he or she has violated his or her oath or solemn declaration, so that appropriate action may be taken under the relevant domestic legislation.

11. To inform the representatives, the State and the Inter-American Commission that, once the statements are rendered at the public hearing, they shall present before the Tribunal their final oral arguments and final oral observations, respectively, to the merits and possible reparations and legal costs in the instant case.

12. To order the Secretariat of the Court, according to the terms of article 55.3 of the Rules of Procedure, to indicate to the Inter-American Commission, the representatives and the State the link to the recording of the public hearing as soon as possible.

13. To inform the representatives, the State and the Inter-American Commission that the time limit established to present the final written arguments and final written observations, respectively, as well as possible documents attached thereto, in relation to the merits and possible reparations and legal costs in this case, expires on June 8, 2012. This term is non-renewable.

14. To order the Secretariat of the Inter-American Court to notify this Order to the Inter-American Commission on Human Rights, the representatives of the alleged victims and the Republic of Guatemala.

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary