

**Order of the
Inter-American Court of Human Rights
of August 6, 2008
Case of Goiburú *et al.* v. Paraguay
(*Monitoring Compliance with Judgment*)**

HAVING SEEN:

1. The Judgment on the merits, reparations and costs of September 22, 2006 (hereinafter, the "Judgment") delivered by the Inter-American Court of Human Rights (hereinafter, the "Inter-American Court", the "Court" or the "Tribunal"), totally notified to the Republic of Paraguay (hereinafter, the "State" or "Paraguay") on October 17, 2006, by which the Court ordered, unanimously, that:

5. The State must immediately carry out the necessary procedures to activate and conclude effectively, within a reasonable time, the investigation to determine the masterminds and perpetrators of the acts committed to the detriment of Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba, and also complete the criminal proceedings that have been filed. In addition, these results should be published by the State within a reasonable time. In this regard, in the terms of paragraphs 123 to 132 and 164 to 166 of the judgment, the State should adopt the necessary measures of a diplomatic or judicial nature to prosecute and punish all those responsible for the violations committed, furthering by all possible means the necessary extradition requests under the pertinent domestic norms or international law. Moreover, Paraguay and the other States Parties to the Convention should collaborate to eliminate the impunity of the violations committed in this case by the prosecution and, if applicable, punishment of those responsible and should collaborate in good faith, either through the extradition of those responsible for the facts or by prosecuting them on their own territory.

6. The State must proceed immediately to seek and locate Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba and, if their remains are found, it must deliver them to their next kin forthwith and cover the costs of their burial, in the terms of paragraph 172 of the judgment.

7. The State must organize, within six months, a public act acknowledging responsibility and in reparation, in the terms of paragraph 173 of the judgment.

8. The State must publish once, within six months, in the official gazette and in another newspaper with widespread national circulation, paragraphs 39 to 41 and 48 to 54 of the chapter on the partial acquiescence; the proven facts of this judgment, without the corresponding footnotes; the chapter entitled "the State's international responsibility in the context of this case"; the considering paragraphs 80 to 104 and 111 to 113, and the operative paragraphs hereof, in the terms of paragraph 175 thereof.

9. The State must provide all the next of kin of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba with appropriate treatment including medicines, after they have given their corresponding consent, as of notification of [...] judgment and for all the time necessary, without any charge and through the national health services, in the terms of paragraph 176 of the judgment.

10. The State must erect, within one year, a monument in memory of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba, in the terms of paragraph 177 of the judgment.

11. The State must implement, within a reasonable time, permanent programs of human rights training in the Paraguayan police forces, at all levels, in the terms of paragraph 178 of the judgment.
 12. The State must adapt, within a reasonable time, the definition of the crimes of torture and "involuntary" (*forzosa*) disappearance of persons contained in Articles 236 and 309 of the current Penal Code to the applicable provisions of international human rights law, in the terms of paragraph 179 of the judgment.
 13. The State must pay in cash to the next of kin of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba, within one year, as compensation for pecuniary damage, the amounts established in paragraph 155 of [...] judgment, in the terms of paragraphs 147 and 149 thereof.
 14. The State must pay in cash to Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, Rodolfo Ramírez Villalba, Benjamín Ramírez Villalba, Elva Elisa Benítez Feliú de Goiburú, Rogelio Agustín Goiburú Benítez, Rolando Agustín Goiburú Benítez, Patricia Jazmín Goiburú Benítez, Rosa Mujica Giménez, Gladis Ester Ríos de Mancuello, Claudia Anahí Mancuello Ríos, Carlos Marcelo Mancuello Ríos, Ana Arminda Bareiro de Mancuello, Mario Mancuello, Ana Elizabeth Mancuello Bareiro, Hugo Alberto Mancuello Bareiro, Mario Andrés Mancuello Bareiro, Emilio Raúl Mancuello Bareiro, Fabriciana Villalba de Ramírez, Lucrecia Ramírez de Borba, Eugenia Adolfinia Ramírez de Espinoza, Sotera Ramírez de Arce, Sara Diodora Ramírez Villalba, Mario Artemio Ramírez Villalba, Herminio Arnoldo Ramírez Villalba, Julio Darío Ramírez Villalba and María Magdalena Galeano, within one year, as compensation for non-pecuniary damage, the amounts established in paragraph 161 of this judgment, in the terms of paragraphs 147 to 149 and 162 thereof.
 15. The State must pay in cash, within one year, for costs and expenses incurred in the domestic sphere and in the international proceedings before the inter-American system for the protection of human rights, the amount established in paragraph 183 of this judgment, which shall be delivered to Elva Elisa Benítez Feliú de Goiburú, Ana Arminda Bareiro de Mancuello and Julio Darío Ramírez Villalba, in the terms of paragraphs 183 and 187 thereof.
 16. It will monitor full compliance with [the] judgment and will consider the case closed when the State has fully executed the operative paragraphs. Within a year of notification of [the] judgment, the State must send the Court a report on the measures adopted to comply with it.
2. The State's brief of August 16, 2007, by which it forwarded a publication of the Judgment made on May 11, 2007 in the Official Gazette of the Republic of Paraguay.
 3. The note of the Court's Secretariat (hereinafter, the "Secretariat") of August 24, 2007 by which the parties were recalled that, according to the operative paragraph sixteen of the Judgment, the State must send the Court a report on the measures adopted to comply with it, within one year of notification of such Judgment, and therefore the parties will be able to submit their observations once the report is received.
 4. The brief of October 16, 2007 and its appendixes received on November 6 of that same year, whereby the State submitted its first report on the measures adopted to comply with the Judgment.
 5. The Secretariat's note of October 23, 2007 by which the representatives of the victims' next-of-kin (hereinafter, the "representatives") and the Inter-American Commission on Human Rights (hereinafter, the "Commission") were called upon to submit, within four and six weeks, respectively, their observations to the first State's report and State's brief of August 16, 2007 (*supra* Having Seen clause 2).

6. The brief of November 27, 2007 whereby the representatives submitted their observations to the State's reports.

7. The communication of December 21, 2007 by which the Commission requested an extension until January 10, 2008 to forward the observations to the first State's report.

8. The Secretariat's note of January 7, 2008 by which, following the instructions of the President of the Court, it informed that the Court granted the extension requested by the Commission.

9. The brief of January 18, 2008 whereby the Commission submitted the observations to the first State's report.

10. The communication of February 21, 2008 by which the State indicated that the Attorney General of Paraguay requested the President of the Republic to "enact a Decree for the implementation of the Inter-Institutional Commission in order to comply with the Judgments delivered by the Court."

CONSIDERING:

1. It is an inherent power of the judicial functions of the Court to monitor compliance with its decisions.

2. That Paraguay has been a State Party to the American Convention since August 24, 1989, and that it accepted the binding jurisdiction of the Court on March 26, 1993.

3. That article 68(1) of the American Convention stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties". Therefore, the States must ensure that the rulings set out in the decisions of the Court are implemented at the domestic level.¹

4. That, in consideration of section 67 of the American Convention which stipulates that the judgment of the Court shall be final and shall not be subject to appeal, such judgment shall be fully and promptly complied with by the State.

5. That the obligation to comply with the rulings of the Court conforms to a basic principle of the law on the international responsibility of States, under which States are required to fulfill their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke their

¹ Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para 60; *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. Monitoring Compliance with the Judgment. Order of the Inter-American Court of Human Rights of May 7, 2008; Considering Clause three and *Case of Gómez- Paquiyauri Brothers v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of May 3, 2008, Considering Clause three.

municipal laws to escape from their pre-established international responsibility. The treaty obligations of States Parties are binding on all State powers and organs.²

6. That the States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle applies not only in connection with the substantive provisions of human rights treaties (*i.e.* those dealing with provisions on protected rights) but also in connection with procedural rules, such as the ones concerning compliance with the decisions of the Court. Such obligations are intended to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, taking into account the special nature of human rights treaties.³

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7. That as to the compliance with the obligations established in the Judgment, the State informed that Inter-Institutional Working Team has been created in order to fully and effectively comply with the terms ordered in the Judgment.

8. That, as to this issue, the representatives observed that the Inter-Institutional Working Team has gathered only one time, that there is no minute of said gathering showing the monitoring measures adopted by the State and that some of the victims' next- of-kin indicated that "said institution is more official instead of being of an executive nature". Moreover, the Commission pointed out that though the State referred to an Inter- Institutional Team or Commission in its report, it did not provide any details regarding its composition or functioning.

9. That the Court values the efforts made in order to fully comply with the Judgment, specially the fact of having created said working team and urges the State to continue adopting the necessary measures to ensure the permanent operation of mechanism towards the goals established and furthermore, the State must take into account the observations made by the victims' next-of-kin and representatives regarding the creation and functioning of such mechanism, that are vital for the effective compliance of the State's duties.

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10. That as to the State's obligation to immediately carry out the necessary procedures to activate and conclude effectively, within a reasonable time, the investigation to determine the masterminds and perpetrators of the acts committed to the detriment of Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, Rodolfo

² Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Articles 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of September 9, 1994, Series A N°.14, para. 35; *Case of Mayagna (Sumo) Awas Tingni Community*, *supra* note 1, Considering clause five and *Case of the Gómez- Paquiyauri Brothers*. *supra* note 1, Considering clause five.

³ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of the Inter-American Court of Human rights of September 24, 1999, para. 37; *Case of Mayagna (Sumo) Awas Tingni Community*, *supra* note 1, Considering clause six and *Case of the Gómez- Paquiyauri Brothers*. *supra* note 1, Considering clause six.

Ramírez Villalba and Benjamín Ramírez Villalba (*operative paragraph five of the Judgment*), the State informed that the legal representative of the victims' next-of-kin furnished the Office of the Attorney General of the Republic with information related to the different courts where the different court cases were assigned to, in order to carry out the necessary procedures to activate the corresponding case files. Thus, the State points out, in a general way that said courts would be carrying out the necessary procedures.

11. That the victims' next- of-kin, through their representatives, referred that, up to the moment, no progress was made in the investigations kept by the Office of the Public Prosecutor or the Attorney's General of the Republic of Paraguay. Furthermore, they mentioned that even though it is true that the representatives furnished the different courts with information, such information was of public nature and that it was already in the hands of the State. The representatives informed that the Trial Court on Criminal Matters delivered a final judgment against one of the alleged masterminds of the facts, convicting him to a 10- year imprisonment for the death of Mr. Agustín Goiburú, though the case is still not concluded. Furthermore, the representatives stated that they were familiar with the request for extradition of the former Interior Minister, who would be, at this moment, isolated in Honduras.

12. That the Commission considered that the information provided by the State does not prove that new measures have been adopted in order to comply with this obligation, and that the State would has only adopted useless measures. Furthermore, it pointed out that the State is fully aware of the existing criminal procedures regarding the victims of the instant case and that it is its duty to expedite such procedures until they are concluded, taking into account the clarifications made by the Court in its Judgment.

13. That as to the information submitted by the State, in relation to the obligation to immediately carry out the necessary procedures to activate and conclude effectively, within a reasonable time, the investigation to determine the masterminds and perpetrators of the acts committed, the Court observes that even though some measures have been adopted in order to clarify the facts of the case, there is no sufficient information to determine whether the existing judicial mechanisms have been effective. In this sense, the Tribunal considers it is vital for the State to submit up-dated, detailed and complete information on the measures carried out and the progress made in the procedures, specially, regarding any measure adopted in order to identify the possible masterminds and perpetrators.

14. That, as has been established in the Judgment, it is necessary to remember that the instant case deals with forced disappearances of people, among other violations, and that the State has the duty to initiate a prompt, serious, impartial and effective investigation *ex officio* (paragraph 88 of the Judgment). Certainly, during the investigation and judicial proceedings, the victims or their next of kin must have ample opportunity to take part and be heard, both in the elucidation of the facts and the punishment of those responsible, and in the quest for fair compensation. However, the investigation and the proceedings must have a purpose and be assumed by the State as its inherent legal obligation and not as the result of efforts made by private interests, which depend on the procedural initiative of the victims or their next of kin or on the contribution of probative elements by the latter (paragraph 117 of the Judgment).

15. That, it should be taken into account that, according to the terms of the Judgment, in order to effectively comply with this obligation, the State must remove all the *de facto* and *de jure* obstacles that maintain impunity and use all available means to expedite the investigation and the respective proceedings and thus avoid a repetition of such serious acts as those examined in the instant case (paragraph 165 of the Judgment). In this regard, in the terms of the general obligation to ensure rights established in Article 1(1) of the American Convention, Paraguay should adopt all the necessary diplomatic and judicial measures to prosecute and punish all those responsible for the violations committed, furthering the extradition requests that are admissible under domestic law or the pertinent international law by all possible means (paragraph 166 of the Judgment). Also, to ensure the effectiveness of the collective guarantee mechanisms established in the Convention, and as has been declared, Paraguay and the other States Parties to the Convention should collaborate with each other to eliminate the impunity of the violations committed in this case by the prosecution and punishment of those responsible, and should collaborate with each other in good faith, either through the extradition of those responsible or by prosecuting them on their own territory (paragraph 166 of the Judgment).

16. That, as indicated in paragraph 184 of the Judgment, the State must inform the Court, every six months, about the measures adopted regarding the corresponding investigation and procedures and, particularly about the results, which remains unfulfilled by the State so far. Furthermore, the State must publicly publish said results, so that the Paraguayan society is able to know the truth regarding the facts of the instant case.

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17. That as to the obligation of the State to immediately seek and locate Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba and, if their remains are found, deliver them to their next kin forthwith and cover the costs of their burial (*operative paragraph six of the Judgment*), the State informed that the representative of the Truth and Justice Commission “proposed to carry out, together with the Inter-Institutional Team and the victims’ next-of-kin, an exchange of necessary information with the intention to assist in the location of victims that is being carried out by the expert witnesses. Furthermore, the State attached a set of official letters issued by different National Police premises that demonstrate the searching tasks and also confirm that the disappeared victims have not been located yet.

18. That the representatives mentioned that “even though it [was] true [that] in the only meeting of the Inter-Institutional Commission, the need to find the human remains was discussed, that was an essential issue of the Judgment. Up to the moment, neither the representatives nor the victims’ next- of-kin [have] been called to hold a meeting to exchange information. Though they acknowledge that the [r]epresentative of the Truth Commission proposed this aspect, they consid[er] that it is the State itself, with all its mechanism, [the one] that must search for the remains of the disappeared people [since] the State acknowledged its responsibility for the forced disappearance, it is the State itself who has the factual and legal means to comply with this issue”. Moreover, they noted that the State has the coercive power to require from a large number of people involved in these situations to make public the whereabouts of the victims, specially taking into account that even some of these people are being accused of the same facts. Likewise, they

pointed out that the Truth and Justice Commission has a finite existence and budgetary problems that makes impossible for the Commission to fulfill its role.

19. That the Commission pointed out that the information submitted by the State does not show that specific measures aimed at complying with this obligation have been adopted. Furthermore, it mentioned that the State has at its disposal a series of mechanisms to collect information that would allow the location of the victims' remains, among them, the corresponding criminal investigation and the steps that the Truth and Justice Commission can take.

20. That the Court values the will expressed by the State to comply with this issue, specially, the importance of counting with the participation of the next-of-kin and that the Truth and Justice Commission also adopts measures. Nevertheless, it does not spring from the information received, that all the possible measures have been adopted according to the possible, foreseeable and specific results or, at least, meaningful progress, which this Tribunal needs to monitor. Therefore, it is necessary for the State to forward up-dated information on the compliance with this measure of reparation and on the specific steps taken to search and identify the disappeared victims.

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21. That as to the duty of the State to organize, within six months, a public act acknowledging responsibility and in reparation (*operative paragraph seven of the Judgment*), the State pointed out that, in accordance with the decision made during the Meeting of the Inter-Institutional Working Team, the National Ministry of Foreign Affairs is working, together with the Ministry of Interior, in order to comply with the decision ordered in said paragraph.

22. That the representatives mentioned that this would be "maybe the issue that mostly shows the lack of political will of the State to [comply with] the Judgment of the Inter-American Court, since said [p]ublic act would demonstrate an acknowledgement before the Paraguayan society that the State is not willing to admit at the moment". Besides, the Commission urged the State to adopt specific measures aimed at fulfilling this obligation through corresponding collaboration and duly participation of the victims' next-of-kin.

23. That the Court observes that there is a delay in the compliance with this obligation, inasmuch as the term fixed to such end was of six months as from notice of the Judgment. The Tribunal recalls the importance for the State to comply with this measure of reparation, given the real symbolic value that the same has as a guarantee of non-repetition of such serious facts in the future.

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24. That as to the obligation of the State to publish once, within six months, in the official gazette and in another newspaper with widespread national circulation, the pertinent parts of the Judgment (*operative paragraph eight of the Judgment*), the State informed that the pertinent parts of the Judgment have been published in the Official Gazette on May 11, 2007 and it also mentioned that steps are being taken in order to fully comply with this obligation.

25. That the representatives pointed out that even if it is true that the Judgment was partially published, not all the paragraphs were published on that occasion and they highlighted that the Chapter entitled " the State's international responsibility in the context of the instant Case" has not been published at all. Moreover, the Commission noted that the State complied with the order regarding the publication in the Official Gazette of the parts of the Judgment, except for such chapter.

26. That the Court values that the State has Publisher some of the parts of the Judgment in the Official Gazette on May 11, 2007. Nevertheless, it also considers the statements made by the representatives and the Commission regarding the fact that in said publication, the chapter entitled "the State's international responsibility in the context of the instant case" was not published (paragraphs 62 to 73 of the Judgment). In this way, the Court deems it is essential that the State fully publishes the pertinent parts of the Judgment, according to the order delivered by this Court, including the chapter missing in the publication of May 11, 2007 and proceeds, in turn, to publish the pertinent parts of the Judgment in a newspaper with widespread circulation of Paraguay.

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27. That, as to the State's obligation to provide all the next of kin of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba with appropriate treatment including medicines, after they have given their corresponding consent, as of notification of the Judgment and for all the time necessary, without any charge and through the national health services (*operative paragraph nine of the Judgment*), the State did not submit any information on the compliance with that issue.

28. That the representatives emphasized that the State did not inform on the status of compliance with this issue and pointed out that no member of the victims' next-of-kin would have called upon the representatives of the Inter-Institutional Commission, or would have been offered with assistance.

29. That the Court observes that the State has not informed on this measure of reparation. Moreover, it takes into account the statement made by the representatives in the sense that no member of the victims' next-of-kin has received any kind of treatment or has had the opportunity of requesting it as from notice of the Judgment. The Court considers it is of utmost importance that this measure of reparation begins to be fully and effectively implemented.

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30. That as to the obligation of the State to erect, within one year, a monument in memory of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba (*operative paragraph ten of the Judgment*), the State mentioned that it remembered that, together with the pertinent consultations and steps taken by the representative of the Municipality of Asunción in relation to the identification of the places and their feasibility, the legal representative of the victims' next-of-kin will discuss with them this issue in order to

reach an agreement. Up to the moment of the submission of the State's report, the result of said consultations are still pending.

31. That the representatives pointed out that they are unaware of the proposal made by the State as well as of the consultation the State mentioned it held with the legal representative of the victims. The representatives considered that the monument is not going to be erected in memory of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba but that "they expect that it will be a reference of the context of the forced disappearance of people that occurred during the Condor Operation", meaning that, said monument "will be in memory of those that were victims of forced disappearances during the dictatorship".

32. That the Court values the will expressed by the State regarding this issue, but it observes that the State is delayed for compliance with this issue, specifically because the term fixed in the Judgment to erect the monument was of one year as from notice of said judgment. It is necessary to recall that the future monument must bear a plaque with the names of these victims and should mention the context of the forced disappearances that occurred during Condor Operation. The Tribunal recalls the importance for the State to comply with this measure of reparation, given the real symbolic value that the same has as a guarantee of non-repetition of such serious facts in the future.

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33. That as to the obligation of the State to implement, within a reasonable time, must implement, within a reasonable time, permanent programs of human rights training in the Paraguayan police forces, at all levels (*operative paragraph eleven of the Judgment*), the State informed that the National Police was already implementing programs on Human Rights, Ethic of the Human Person and Police Practice and Procedure.

34. That the representatives stated that they have no further information than the information provided by the State and the Commission considered that the information submitted by the State does not allow to properly value whether this obligation is being complied with.

35. That the Court values the fact that the education programs on human rights are already being enforced within the Paraguayan police forces. Moreover, the Court reminds the State that the education on human rights within the Armed Forces is vital to create guarantees of non-repetition of facts as the ones seen in the instant case. Therefore, it urges the State authorities to continue adopting the measures necessary to fully comply with this obligation and it is waiting for further information on the results of such measures.

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36. That as the State's obligation to adapt, within a reasonable time, the definition of the crimes of torture and "involuntary" (*forzosa*) disappearance of persons contained in Articles 236 and 309 of the current Penal Code to the applicable

provisions of International Human Rights Law (*operative paragraph twelve of the Judgment*), the State alleged that on July 27, 2007, it forwarded a note to the President of the Honorable National Congress requesting him the modification of the definition of the crimes of torture and "involuntary" disappearance of people, in order to adapt them to International Human Rights Law.

37. That the representatives mentioned that the National Congress is effectively dealing with a set of proposals for the modification of the current Penal Code, which include the definition so ordered. Moreover, the Commission valued the measures so introduced and requested the State to forward a copy of the existing project, urging it to adopt the necessary measures to comply with this operative paragraph.

38. That the Court values the will shown by the State to comply with this issue and observes that it is in principle, though not satisfactorily, complying with this obligation since the Government sends notes to the Congress requesting the modification of the referred rules. In this sense, the reparation so ordered establishes an obligation for the legislative branch of the State to modify such rules within a reasonable time and the treaty obligations of States Parties are binding on all State powers and organs. Therefore, this Tribunal urges the State to fulfill, through all competent organs, these obligations and deems it is necessary to receive further information on the specific progress and possibilities of the modifications mentioned.

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39. That as to the obligation of the State to pay compensations for pecuniary and non-pecuniary damage, costs and expenses (*operative paragraph operative paragraphs thirteen, fourteen and fifteen of the Judgment*), the State pointed out that the Treasury has been included in the Project of the Budget for the Fiscal Year 2008, the sum of PYG. 921.707.200 (nine hundred twenty-one millions seven hundred and seven thousand two hundred Guarani) and it has attached to such report, as evidentiary documentary, an Official letter of the Treasury informing on that issue.

40. That the representatives mentioned that they are aware of the fact that the amount proposed by the State has been requested in the budget account of the year 2008; nevertheless, they pointed out that said matter "has not been addressed at the Congress nor has been followed- up by the officials of the Treasury Department". Some of the victims' next-of-kin mentioned that "the request for resources sent to the Congress does not show, on its own, the will to comply with this part of the Judgment" and they emphasized that there is no evidence in the State's report regarding the exhibits thereto that may effectively prove that said proposal has been forwarded to the Congress nor there are documents or copies that may certify that said compensations are included in the budget account of the year 2008. They added that there is no presentation of arguments or evidence of complementary measures to obtain the approval of such budget. Furthermore, the representatives pointed out that they have no contact with the Treasury Department and that the amounts proposed by the State are not the same as the amounts set forth by the Court in the Judgment.

41. That the Commission urged the State to inform the Court on whether the payment of the compensations, costs and expenses of the instant case has been

included in the budget for the Fiscal Year 2008 and the total amount. The Commission, in addition, considered it was useful for the State to stay in contact with the representatives of the victims' next- of-kin in order to keep them informed on this issue and other aspects of compliance.

42. That the Court values the efforts made by the State to begin carrying out these measures of reparation. However, it notes that the compensations ordered have not been effectively paid and, specifically, that there is no clarity on whether the amounts proposed effectively correspond with the provisions set forth in the Judgment. Therefore, this Tribunal considers it is necessary that the State submits further information on this regard, especially on the way in which such payments would be implemented, in order to assess its full compliance.

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43. That this Court notes that the State has not furnished complete and detailed information regarding each one of the measures of reparations ordered in the Judgment.

44. That, likewise, the Court highlights the characteristic importance of the observations the Commission as well as the representatives of the beneficiaries will submit regarding the information furnished by the State.

45. That it is necessary to continue monitoring the compliance with the terms ordered in the Judgment, to which end the Tribunal could eventually summon the State, the representatives and the Commission to a hearing.

THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of its authority to monitor compliance with its own decisions pursuant to Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, and Articles 25(1) and 30 of its Statute and 29(2) of its Rules of Procedure,

DECLARES:

1. That it will keep open the procedure to monitor compliance with the following aspects pending compliance in the instant case, to wit:

a) To carry out the necessary procedures to activate and conclude effectively, within a reasonable time, the investigation to determine the masterminds and perpetrators of the acts committed to the detriment of Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba, and also complete the criminal proceedings that have been filed. In addition, these results must be published by the State within a reasonable time (*operative paragraph five of the Judgment*);

- b) To immediately proceed to seek and locate Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba and, if their remains are found, the State must deliver them to their next kin forthwith and cover the costs of their burial (*operative paragraph six of the Judgment*);
- c) To organize, within six months, a public act acknowledging responsibility and in reparation (*operative paragraph seven of the Judgment*);
- d) To publish once, within six months, in the official gazette and in another newspaper with widespread national circulation, paragraphs 39 to 41 and 48 to 54 of the chapter on the partial acquiescence; the proven facts of this judgment, without the corresponding footnotes; the chapter entitled “the State’s international responsibility in the context of this case”; the considering paragraphs 80 to 104 and 111 to 113, and the operative paragraphs thereof (*operative paragraph eight of the Judgment*);
- e) To provide all the next of kin of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba with appropriate treatment including medicines, after they have given their corresponding consent, as of notification of the judgment and for all the time necessary, without any charge and through the national health services (*operative paragraph nine of the Judgment*);
- f) To erect, within one year, a monument in memory of Agustín Goiburú Giménez, Carlos José Mancuello, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba (*operative paragraph ten of the Judgment*);
- g) To implement, within a reasonable time, permanent programs of human rights training in the Paraguayan police forces, at all levels (*operative paragraph eleven of the Judgment*);
- h) To adapt, within a reasonable time, the definition of the crimes of torture and “involuntary” (*forzosa*) disappearance of persons contained in Articles 236 and 309 of the current Penal Code to the applicable provisions of International Human Rights Law (*operative paragraph twelve of the Judgment*), and.
- i) To pay the amounts established in paragraphs 155 and 161 of the Judgment to the victims’ next-of-kin as compensation for pecuniary and non-pecuniary damage (*operative paragraphs thirteen and fourteen, paragraphs 147 to 149 and 162 of the Judgment*) as well as the amount fixed in paragraph 183 of the Judgment as costs and expenses (*operative paragraph fifteen of the Judgment*).

AND DECIDES:

1. To require the State to take the necessary measures to fully and immediately comply with the Operative Paragraphs pending fulfillment of the Judgment on the merits, reparations and costs delivered by the Court on September 22, 2006 according to the provisions of Article 68(1) of the American Convention on Human Rights.

2. To request the State to submit to the Inter- American Court of Human Rights, no later than November 10, 2008, a detailed report specifying such measures as may have been adopted to comply with the reparations ordered by this Court, still pending compliance, as spelled out in the Considering clauses No. 45 and the declarative paragraph one of this Order.

3. To call upon the representatives of the victims' next- of-kin and the Inter- American Commission on Human Rights to submit their observations to the State's report referred to in the preceding operative paragraph, within a period of four and six weeks, respectively, as from the date of receipt of the report.

4. To continue monitoring the aspect of the Judgment on merits, reparations and costs of September 22, 2006 that is still pending compliance.

5. To require the Secretariat of the Court to notify this Order to the State of Guatemala, the Inter- American Commission on Human Rights and the representatives of the victims' next of kin.

Cecilia Medina Quiroga
President

Diego García-Sayán

Sergio García Ramírez

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary