



**Inter-American Court  
of Human Rights**



# ANNUAL REPORT 2017



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**ANNUAL REPORT 2017**

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# I. Foreword



On behalf of the seven judges of the Inter-American Court of Human Rights, I have the honor to present the 2017 Annual Report, which describes the most significant tasks accomplished during the year and the most relevant developments in the area of human rights.

The year began with the traditional ceremony to inaugurate the 2017 Inter-American Judicial Year attended by numerous official representatives of the different States, members of civil society and representatives of international organizations. This ceremony has become a driving force that reveals the spirit of a court that is open to dialogue and cooperation with all members of society, by sharing experiences and reflections on strengthening human rights and improving access to international justice.

2017 has been a very intense and productive year during which we were able to examine new developments in jurisprudence and make progress with the budgetary situation of the inter-American system for the protection of human rights.

Regarding the budget, following numerous diplomatic, administrative and political negotiations, during the General Assembly of the Organization of American States (OAS) in June this year, the States took the political decision to double the resources of the Regular Fund allocated to the organs of the inter-American human rights system. This was truly a landmark decision that will permit a gradual 33% yearly increase for each organ, which will double the regular budget contributed by the OAS after three years.

As a result of these efforts and the achievement of the increased budget, next year the judges will meet as a collegiate body for 14 weeks, financed by the regular fund, compared to eight weeks in previous years; this means that they will not meet during only one month of the year. This is a record in the Court's history and reveals the trend towards stability and institutionalism, all with a view to having permanent full-time judges.

Regarding activities, during 2017, the Court held four Regular Sessions at its seat in San José, Costa Rica, and two Special Sessions, one in Guatemala and one in Panama. Fifteen public hearings on contentious cases were held, four hearings on provisional measures, and seven hearings in relation to the procedure of monitoring compliance with judgment. In addition, the

Court's advisory function has been revitalized, and three hearings were held on requests for advisory opinions.

The Court delivered 14 judgments, ten of them on preliminary objections merits, reparations and costs and four on interpretation. It also issued two important advisory opinions as well as 29 orders on monitoring compliance with judgment and 22 orders on provisional measures. Eighteen new cases were submitted to the consideration of the Inter-American Court and, at December 2017, 35 cases were pending a decision by the Court.

In relation to our jurisprudence, we have continued to rule on innovative issues and reinforced crucial international human rights standards. In this way, we have been able to reaffirm our jurisprudence on different issues, such as the duty to investigate, the incompetence of the military jurisdiction to prosecute human rights violations, the standards for the independence of investigating organs, enforced disappearance as a multiple and permanent violation of human rights, enforced disappearance in the context of armed conflict, and due diligence and a reasonable time in cases of rape.

In addition, this year we overcame another significant challenge, which was the progressive increase in justiciable issues, especially the economic, social, cultural and environmental rights (the so-called ESCER), a trend that was becoming imperative in the Court's case law. For the first time, in 2017, the Court declared the violation of Article 26 of the American Convention on Human Rights, a ruling that represented a milestone in inter-American case law and a step forward in the region in relation to the interdependence and indivisibility of the civil and political rights and the ESCER. This resulted in a broad understanding of the right to property and the inviolability of the home, freedom of expression in the workplace, the right to employment stability as a protected right, and the right to form labor unions for the protection and promotion of the interests of workers as part of the right to work.

Furthermore, during the year the Court issued two advisory opinions on such different issues as the impact of major projects on the marine environment, and the rights derived from gender identity and the protection of the patrimonial rights of same-sex couples. The standards established in the two opinions are specific responses to urgent contemporary and crosscutting issues on our continent.

I would particularly like to stress Advisory Opinion OC-24/17 on gender identity and equality and non-discrimination for same-sex couples. Regarding protection for such couples, the Court reiterated that the American Convention does not protect a specific model of family, because the definition of family is not exclusive to the family composed of a heterosexual couple. Thus, the Court affirmed that, to ensure the rights of same-sex couples, it was not necessary to create new legal mechanisms and, consequently, it recommended extending the existing mechanisms to same-sex couples, including marriage, in keeping with the *pro persona* principle.

This year, for the second time, an on-site procedure was conducted to monitor the implementation of provisional measures in Brazil. A delegation from the Court was thus able to observe directly the conditions of those deprived of liberty in the Plácido de Sá Carvalho Prison Complex. Also, two judicial procedures were conducted to verify, on-site and directly, the level of compliance with the reparations ordered in five cases, two of them against Guatemala and three against Paraguay.

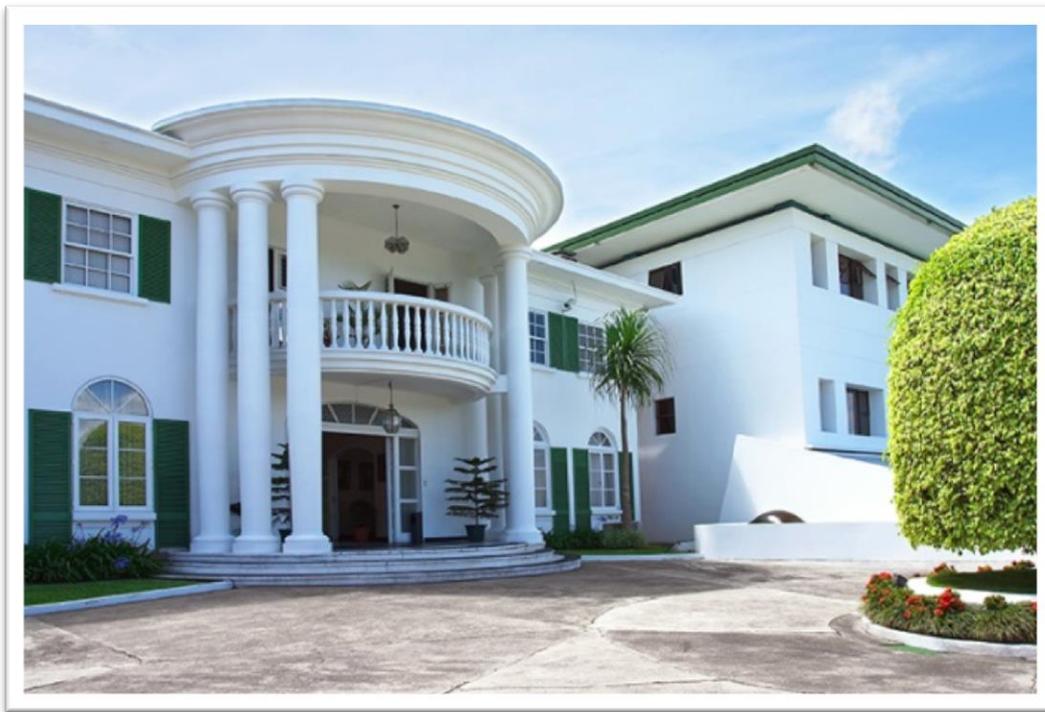
Lastly, I would like to express my appreciation to my colleagues, Judge Eduardo Ferrer, Judge Eduardo Vio, Judge Humberto Sierra, Judge Elizabeth Odio, Judge Raúl Zaffaroni and Judge Patricio Pazmiño for the trust they have placed in me during the two years of my presidency which culminate on December 31 this year. They have been two years of hard work and major challenges, but they have also been very gratifying and provided us with opportunities for learning from each other. On ending, I would like to recall that the only purpose of our work as inter-American judges is the protection of the human rights of the peoples of our hemisphere. I hope that I have contributed to the construction of this common path.

Roberto F. Caldas  
President of the Inter-American Court of Human Rights  
December 31, 2017

## II. The Court: Structure and functions

### A. Creation

The Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) is a treaty-based organ that was formally established on September 3, 1979, by the entry into force of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) on July 18, 1978. The Statute of the Inter-American Court of Human Rights (hereinafter, “the Statute”) establishes that it is an “autonomous judicial institution,” with the mandate of interpreting and applying the American Convention.



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## B. Organization and composition

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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").<sup>1</sup>

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

Judges are elected for a term of six years and may be re-elected only once. Judges whose terms have expired shall continue to serve with regard to the "cases they have begun to hear and that are still pending judgment,"<sup>3</sup> and, to this end, they will not be replaced by the judges newly-elected by the OAS General Assembly. The President and the Vice President are elected by the judges themselves for a two-year period and may be re-elected.<sup>4</sup> In 2017, the composition of the Court was as follows (in order of precedence<sup>5</sup>):

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

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

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

<sup>2</sup> American Convention on Human Rights, Article 52. *Cf.* Statute of the Inter-American Court of Human Rights, Article 4.

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

<sup>4</sup> Statute of the Inter-American Court of Human Rights, Article 12.

<sup>5</sup> 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."

During the 120th Regular Session held in San José, Costa Rica, the Court held elections for its new board for the period 2018-2019. Judge Eduardo Ferrer Mac-Gregor was elected President of the Court and Judge Eduardo Vio Grossi was elected Vice President.



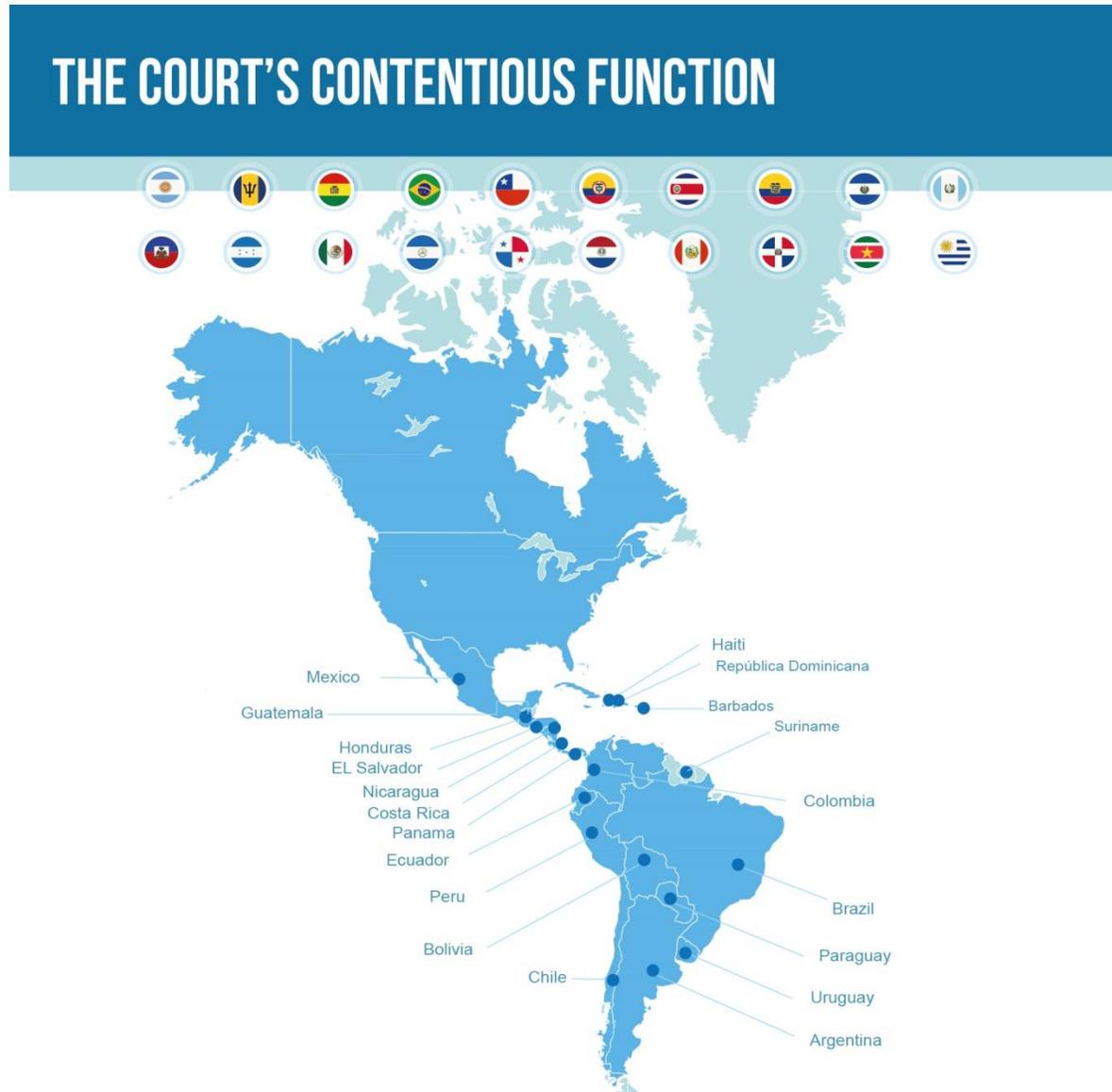
First row from left to right: Judge Humberto Antonio Sierra Porto, Judge Eduardo Ferrer Mac-Gregor (Vice President); Judge Roberto F. Caldas (President); Judge Eduardo Vio Grossi; Judge Elizabeth Odio Benito. Second row: Judge Raúl Zaffaroni and Judge Patricio Pazmiño Freire.

## C. States Parties

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

On September 10, 2012, Venezuela presented an instrument of denunciation of the American Convention on Human Rights to the Secretary General of the Organization of American States (OAS). In accordance with the provisions of Article 78(1) of the American Convention on Human Rights, “[t]he States Parties may denounce this Convention [...] by means of notice given one year in advance”; thus, the denunciation came into force on September 10, 2013. It should be

pointed out that, as established in paragraph 2 of Article 78, this denunciation did not release the Venezuelan State from the obligations contained in the American Convention with respect to any act that might have constituted a violation of those obligations and that had been taken prior to the effective date of denunciation.



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## D. Functions

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According to the American Convention, the Court exercises (I) contentious functions; (II) powers to order provisional measures, and (III) an advisory function.

### Contentious function

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

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

#### a) Contentious stage

This stage has four phases, which include six actions:

-  Initial written phase
-  Oral phase or public hearing;
-  Final written arguments of the parties and observations of the Commission;
-  Evidentiary procedure
-  Deliberations and delivery of judgment, and
-  Interpretation requests

#### Initial written phase

##### *Submission of the case by the commission<sup>6</sup>*

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

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<sup>6</sup> According to Article 61 of the American Convention, States also have the right to submit a case to the Court to decide, in which case the provisions of Article 36 of the Rules of Procedure of the Court will be observed.

<sup>7</sup> Rules of Procedure of the Inter-American Court of Human Rights, Article 35.

- 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 the arguments to which this refers, and
- The reasons that led the Commission to present the case.

Once the case has been presented, the President makes a preliminary examination to verify that the essential requirements for its presentation have been fulfilled. If this is so, the Secretariat notifies the case to the defendant State and to the presumed victim, his or her representatives, or the inter-American defender if appropriate.<sup>8</sup> During this stage, a judge rapporteur is appointed to the case and, with the support of the Court's Secretariat and together with the President of the Court, he examines the respective case.

### *Designation of inter-american public defender*

When a presumed victim does not have legal representation in a case and/or lacks financial resources 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. The AIDEF General Secretariat will select two defenders and one substitute<sup>9</sup> from among the Inter-American Public Defenders to represent the presumed victim before the Court. In addition, the Court will forward them the documentation relating to the submission of the case to the Court so that they may, from then on, assume the legal representation of the presumed victim before the Court throughout the processing of the case.

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

Following notification of the case, the presumed victim or his or her representatives have two months as of the date of notification of the presentation of the case and its annexes to submit their autonomous brief with pleadings, motions and evidence. This brief must include, inter alia:<sup>10</sup>

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

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<sup>8</sup> Ibid. Article 38.

<sup>9</sup> 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 4, 2013.

<sup>10</sup> Ibid. Article 40.

### *Presentation of the answering brief by the defendant state*

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

- Whether it 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, and
- The legal arguments, observations on the reparations and costs requested, and the pertinent conclusions.

This answer is forwarded to the Commission and to the representatives of the presumed victim.<sup>11</sup>

### *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 them.<sup>12</sup>

### *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.

### *Possibility of taking other measures in the context of the written proceedings*

After the brief submitting the case, the brief with pleadings, motions and evidence, and the State's answering brief have been received, and before the oral proceedings start, the Commission, the presumed victims or their representatives, and the defendant State may ask the President to take other measures in the context of the written proceedings. If the President considers this pertinent, he will establish the time limits for presentation of the respective documents.<sup>13</sup>

### *Reception of amicus curiae*

Any interested person or institution may submit *amicus curiae* briefs to the Court; that is, 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

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<sup>11</sup> Ibid. Article 41

<sup>12</sup> Ibid. Article 42(4)

<sup>13</sup> Ibid, Article 43.

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 time frame for forwarding the final arguments. *Amicus curiae* briefs may also be submitted, In proceedings on monitoring compliance with judgment and on provisional measures.<sup>14</sup>

### Oral phase or public hearing

During this stage the parties are requested to submit their final lists of deponents and when these have been received, they are forwarded to the other party so that the latter may send its observations and, when appropriate, any objections it deems pertinent.<sup>15</sup>

Then, based on the observations, objections or recusals presented made by the parties, the Court or its President calls for a hearing, if this is considered necessary. In addition, the purpose and method of providing the testimony of each deponent is defined.<sup>16</sup> The hearings are public unless the Court considers it desirable that they be totally or partially private.<sup>17</sup>

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.<sup>18</sup> 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 examine certain expert witnesses in exceptional circumstances under the provisions of Article 52(3) of the Court's Rules of Procedure. 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 opportunity for a reply and a rejoinder. Once the arguments have been submitted, the Commission presents its final observations and then the judges pose their concluding question to the representatives, the victims and the Inter-American Commission.<sup>19</sup> This hearing usually lasts a day and a half and is transmitted online via the Court's website

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

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<sup>14</sup> Ibid., Article 44.

<sup>15</sup> Ibid., Article 47.

<sup>16</sup> Ibid., Article 50.

<sup>17</sup> Ibid., Article 15.

<sup>18</sup> Ibid., Article 51.

<sup>19</sup> Ibid., Article 51.

### 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.<sup>20</sup>

### Evidentiary procedures

Pursuant to article 58 of its rules of procedure, the court may, “at any stage of the proceedings,” require the following evidentiary procedures, without prejudice to the arguments and documentation submitted by the parties: (1) obtain, on its own motion, any evidence it considers helpful and necessary; (2) request the submission of any evidence or any explanation or statement that, in the court’s opinion, may be useful; (3) request any entity, office, organ, or authority of its choice to obtain information, express an opinion, or deliver a report or pronouncement on any given point, and (4) commission one or more of its members to take steps to advance the proceedings, including hearings at the seat of the court or elsewhere.

### Phase of deliberation and delivery of judgment

During this 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 deliberate on this draft judgment for several days during one of the sessions. Nevertheless, in complex cases, their deliberations may be suspended and taken up again at a subsequent session. During these deliberations, the draft is discussed and approved until the operative paragraphs of the judgment are reached; these are then voted on by the Court’s judges. In some cases, the judges submit their dissenting or concurring opinions. After the Court has delivered the judgment, it is published and notified to the parties.

### Interpretation and rectification requests

The judgments handed down by the Court are final and non-appealable.<sup>21</sup> Nevertheless, the parties and the Commission have three months 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 90 days of notification of the judgment.<sup>22</sup> In addition, the Court may, on its own motion, or at the request of one of the parties submitted

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<sup>20</sup> Ibid., Article 56.

<sup>21</sup> American Convention on Human Rights, Article 67.

<sup>22</sup> Ibid. Article 67.

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.<sup>23</sup>

## **b) Stage of monitoring compliance with judgments**

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

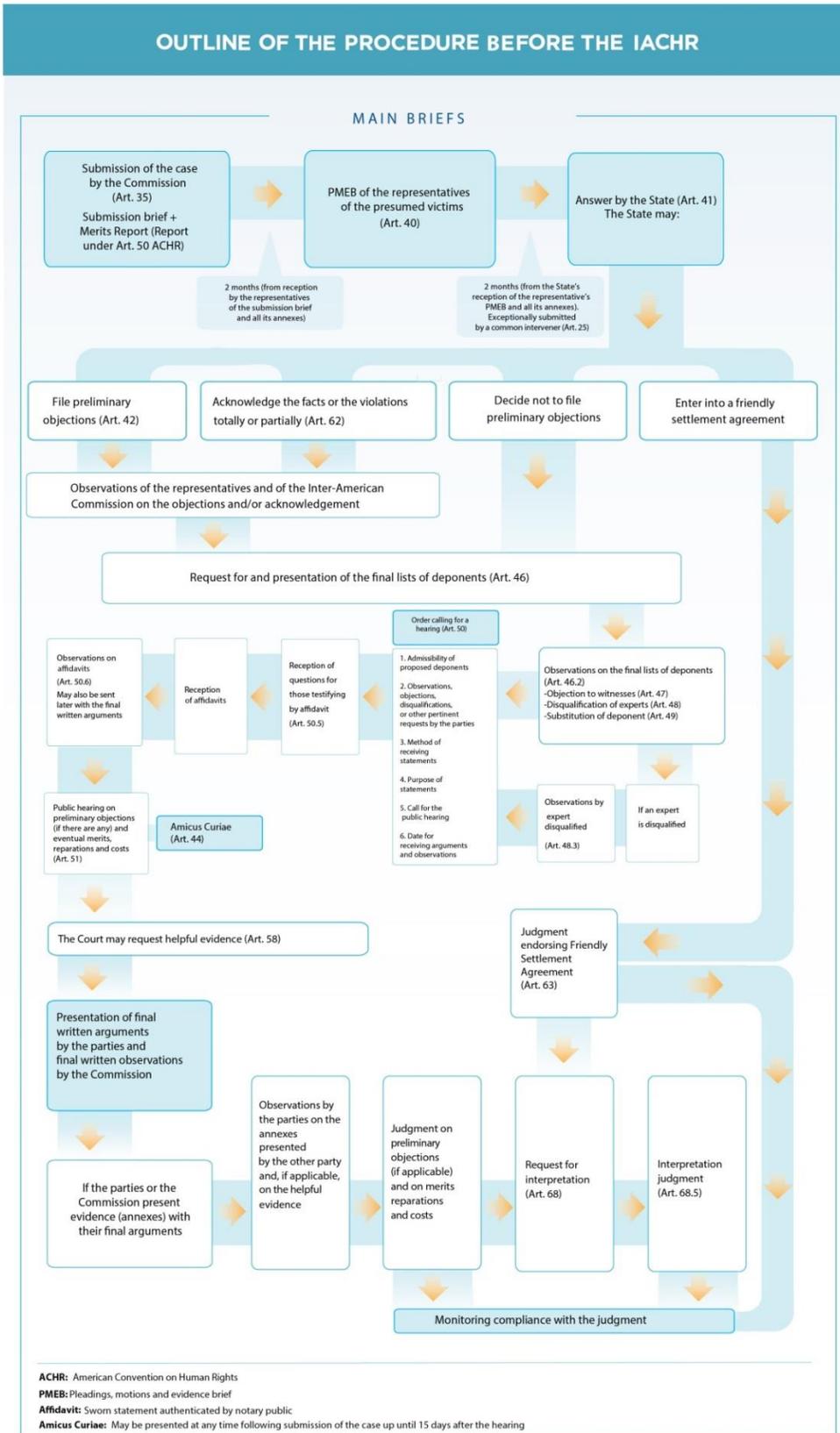
Monitoring compliance with the Court's judgments implies, first, that it must periodically request information from the States on the steps taken to comply with the said judgments, and then obtain the observations of the Commission and of the victims or their representatives. When the Court has received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

Various activities are carried out during this stage, including:

- a) reception of written reports;
- b) hearings;
- c) On-site visits, and
- d) Issue of orders on monitoring compliance

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<sup>23</sup>Rules of Procedure of the Inter-American Court of Human Rights, Article 76.



## Authority to order provisional measures

According to the American Convention, provisional measures of protection are ordered by the Court to order to guarantee the rights of specific individuals or groups of individuals who are in a situation of: (a) extreme gravity and (b) urgency, and (c) risk of suffering irreparable harm.<sup>24</sup> 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, and the representatives of the alleged victims can do so, provided the measures relate to a case that the Court is examining. The Court may also order such measures *ex officio* at any stage of the proceedings.

These measures are monitored by the presentation of reports by the State, and the corresponding comments of the beneficiaries or their representatives, and 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. Based on this authority, in 2015, for the first time the Court made an on-site visit in the context of monitoring the implementation of provisional measures, when a delegation from the Court went to observe directly the conditions of those deprived of their liberty in the Curado Prison Complex in Brazil. Also, on June 19, 2017, the Court made a second on-site visit to Brazil, this time to the Plácido de Sá Carvalho Prison to monitor the corresponding provisional measures. On that occasion, the Court noted the continuing situation of overcrowding, and the poor conditions of detention and of health and hygiene.

## 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.<sup>25</sup>

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 the formalities and the system of sanctions that characterize contentious proceedings.

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<sup>24</sup> American Convention on Human Rights, Article 63(2). *Cf.* Rules of Procedure of the Inter-American Court of Human Rights, Article 27.

<sup>25</sup> *Ibid.* Article 64.

The Court has established that its advisory function is as broad as necessary to safeguard human rights, but is bound by the natural limits indicated by the Convention. However, it should be stressed that the Court is not obliged to issue advisory opinions on every aspect 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 and all the Member States of the OAS, 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 of 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. Upon receipt of the request, the Secretary transmits it to the Member States, the Commission, the Permanent Council through its Presidency, the Secretary General, and the OAS organs. The Court also issues a widespread invitation to submit observations to, among others, 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 expressed their desire to present these orally may participate.

Lastly, the Court proceeds to deliberate the issues presented in the request and to issue the advisory opinion. In addition, the judges have the right to issue a concurring or dissenting opinion on the answer to the request, which is attached to the opinion.

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 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.

## III. Sessions held in 2017<sup>26</sup>

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### A. Introduction

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

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

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### B. Summary of the sessions

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The Court held four Regular Sessions in San José, Costa Rica, and two Special Sessions, one in Guatemala City and the other in Panama City. Details of these sessions appear below.

#### 117th Regular Session

The Court held its 117th Regular Session in San José, Costa Rica, from February 6 to 17, 2017. On February 6, a ceremony was held at the seat of the Court to inaugurate the Judicial Year. During the ceremony, both the President of the Inter-American Court, Judge Roberto F. Caldas, and the President of the Republic of Costa Rica, Luis Guillermo Solís Rivera, addressed those present. The President of the Court summarized the work of the Court during 2016 and underlined the most important challenges facing the Court in 2017, and the main human rights problems in the region.

The inauguration was attended by all the judges of the Court and its Secretaries, as well as by the President of the Republic of Costa Rica, Luis Guillermo Solís; the President of the Costa Rican

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<sup>26</sup> According to Article 19 of the Court's Rules of Procedure, judges who are nationals a defendant State may not participate in the hearing or deliberation of the respective case.

Judiciary, Zarela Villanueva; the Minister for Foreign Affairs, Manuel González; the President of the Court of Justice of the Andean Community, Cecilia Luisa Ayllón; the President of the Constitutional Court of Peru, Manuel Miranda, and the Attorney General for Labor Affairs of Brazil, Ronaldo Curado Fleury. The event was also attended by Costa Rican authorities, representatives of universities and civil society, and members of the diplomatic corps accredited to Costa Rica.



In addition, during this session, the Court held four public hearings on contentious cases<sup>27</sup> and one private hearing on monitoring compliance with judgment.<sup>28</sup> It also delivered three judgments on contentious cases,<sup>29</sup> three orders on provisional measures,<sup>30</sup> and five orders on monitoring compliance with judgment.<sup>31</sup>

During the inauguration of the Judicial Year, cooperation agreements were signed with the Gender Observatory of the Supreme Court of Justice of Costa Rica, the Court of Justice of the

<sup>27</sup> Case of Lagos del Campo v. Peru; Case of Amrhein *et al.* v. Costa Rica; Case of Ortiz Hernández v. Venezuela; Case of San Miguel Sosa *et al.* v. Venezuela.

<sup>28</sup> Case of López Lone *et al.* v. Honduras

<sup>29</sup> Case of Zegarra Marín v. Peru. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 331; Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332; Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333.

<sup>30</sup> Case of the La Rochela Massacre v. Colombia. Provisional measures. Order of the Inter-American Court of Human Rights of February 16, 2017; Case of Fernández Ortega *et al.* v. Mexico. Provisional measures. Order of the Inter-American Court of Human Rights of February 23, 2016, and Matter of the Plácido de Sá Carvalho Prison Complex with regard to Brazil. Provisional measures. Order of the Inter-American Court of Human Rights of February 13, 2017.

<sup>31</sup> Case of Rochac Hernández *et al.* v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 9, 2017; Case of the Miguel Castro Castro Prison v. Peru. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 9, 2017; Case of Rodríguez Vera *et al.* (Disappeared from the Palace of Justice) v. Colombia. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 10, 2017; Case of Atala Riffo and daughters v. Chile. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 10, 2017, and Case of Mémoli v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 10, 2017.

Andean Community, the Attorney General for Labor Affairs of Brazil, and the Judiciary of the State of Mexico. The main purpose of these agreements is to facilitate mutual cooperation and the exchange of experiences, knowledge and expertise related to their mandates.

## Fifty-seventh Special Session

Following an invitation from the Government of Guatemala, the Court held its fifty-seventh Special Session in Guatemala City from March 20 to 27, 2017. The session was inaugurated in the Patio de Paz of the Palacio de la Cultura, the seat of the Guatemalan.



Executive branch. It was attended by the President of the Republic of Guatemala, Jimmy Morales; the President of the Judiciary, Nery Osvaldo Merina; the Third Vice President of the Congressional Administrative Council, Marvin Orellana, and the President of the Presidential Commission to Coordinate the Executive's Human Rights Policy, Víctor Hugo Godoy.

In his inaugural speech, the President of the Court, Judge Roberto F. Caldas, reviewed the relationship between Guatemala and the inter-American system and emphasized the importance of combating impunity as the cornerstone of the rule of law. Meanwhile, the President of the Republic of Guatemala, Jimmy Morales, stressed the significance of the inter-American system for the protection of human rights and, in particular, the Court, whose decisions "provide a guiding light for the conduct of governments and societies."



Following the inauguration of the session, a ceremony was held during which well-known public figures interchanged a rose, which is the symbol of peace in Guatemala, in commemoration of the 1996 Peace Accords. The seven judges of the Court were honored by their designation as Peace Ambassadors in Guatemala.

During the fifty-seventh Special Session, the Court held three public hearings, two on contentious cases<sup>32</sup> and one on a request for an advisory opinion.<sup>33</sup> They all took place in the courtroom of the Supreme Court of Justice of Guatemala, were well attended and transmitted by the Court's website.



<sup>32</sup> Case of the Xucuru Indigenous People and its members v. Brazil and Case of Pacheco León *et al.* v. Honduras.

<sup>33</sup> Request for an Advisory Opinion presented by the Republic of Colombia to the Inter-American Court of Human Rights on March 14, 2016.

Furthermore, with the collaboration of the Government of Guatemala, hearings were held and visits made to monitor compliance with judgments involving that country. When monitoring is conducted in the territory of the State concerned, this permits a more direct verification of the measures taken at the domestic level to implement the Court's decisions, and also allows for a more effective participation of the victims and the state institutions responsible for compliance. In this regard, on March 24, two private hearings were held<sup>34</sup> on several cases against Guatemala that are being monitored jointly. Also, on March 27, two on-site procedures were conducted, during which visits were made to indigenous communities to monitor compliance with two judgments.<sup>35</sup>



<sup>34</sup> Joint monitoring of compliance with the judgments in the cases of: Blake, the "White Van" (Paniagua Morales *et al.*), the "Street Children" (Villagrán Morales *et al.*), Bámaca Velásquez, Myrna Mack Chang, Maritza Urrutia, Molina Theissen, Plan de Sánchez Massacre, Las Dos Erres Massacre, Río Negro Massacre, Gudiel Álvarez *et al.* ("Diario Militar"), Carpio Nicolle *et al.*, Tiu Tojín and Chitay Nech *et al.*, all *v.* Guatemala, and Case of the Las Dos Erres Massacre *v.* Guatemala. Preliminary objection, merits, reparations and costs. Judgment of November 24, 2009. Series C No. 211.

<sup>35</sup> Case of the Río Negro Massacre *v.* Guatemala. Preliminary objection, merits, reparations and costs. Judgment of September 4, 2012. Series C No. 250; Case of the Plan de Sánchez Massacre *v.* Guatemala. Reparations. Judgment of November 19, 2004. Series C No. 116.

The visits began in the Rabinal Community Museum for the Historical Memory. The delegation visited the different rooms in the museum, which are designed to dignify the victims from the area of Rabinal of massacres that took place between 1980 and 1984, and also to reinforce the Achí cultural identity.

Subsequently, the delegation traveled to Colonia Pacux where its members spoke to survivors of the Río Negro massacre at the monument dedicated to the victims and heard their comments on compliance with the measures of reparation. They also visited the health center and educational establishments to verify the measures concerning improvements to the health care center and to the school and the bilingual (Spanish and Maya Achí) education program. The delegation walked around the Colonia in order to monitor the obligation to improve the roads and verified the situation regarding compliance with the measure to provide drinking water. In each place visited and while they walked around, they received comments and information on those measures, as well as on the measures corresponding to the implementation of a food security program and the guarantee of the supply of electricity at an affordable rate. Members of the delegation were invited to enter the homes of survivors of the massacre, who provided them with information on compliance, and they were also able to verify the state of the dwellings that had been provided by the State.

In the afternoon, the delegation visited the village of Plan de Sánchez, traveling by road to verify the measure concerning the improvement of the highway system. The inhabitants were assembled in the chapel in which homage is paid to those who were executed during the massacre. There, the Court's delegation listened to various individuals chosen by the community to speak on its behalf, as well as those who intervened spontaneously. They provided information on the measure concerning the provisions of adequate housing, the state of the road system communicating the village with the municipal capital of Rabinal, the supply of drinking water, and the state of the educational center which provides secondary distance education and health care. The delegation walked to the health center where they spoke to the medical personnel. The Vice Minister of Health and some victims were also present and provided information on the challenges that exist in relation to health care. The delegation also visited the school, where they were able to observe its conditions and speak to the director.



The Court also delivered judgment in a contentious case,<sup>36</sup> and issued an order on the adoption of provisional measures.<sup>37</sup>

Furthermore, during the session, meetings were held with Guatemalan authorities. On March 20, the full Court met with the President of the Republic, Jimmy Morales, in the Palacio de la Cultura, seat of the Guatemalan Executive branch. The purpose of the meeting was to thank the President for the invitation to hold the session in Guatemala, and to discuss the human rights challenges for Guatemala and the region.

On March 22, a working lunch was organized with the justices of the Supreme Court of Justice, to facilitate dialogue and interaction between the two jurisdictions. The same day, the President of the Court, Judge Roberto F. Caldas, the Vice President, Eduardo Ferrer Mac-Gregor, Judge Humberto Sierra Porto and Judge Patricio Pazmiño met with the justices of the Guatemalan Constitutional Court. During the meeting, discussions were held on the need to expand cooperation between the two courts and also on the importance of applying international standards for the protection of human rights when deciding cases in the domestic sphere. The President and the Secretary of the Inter-American Court also met with the President of the

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<sup>36</sup> Case of *Acosta et al. v. Nicaragua*. Preliminary objections, merits, reparations and costs. Judgment of March 25, 2017. Series C No. 334

<sup>37</sup> Matter of Members of the Choréachi Indigenous Community with regard to Mexico. Request for provisional measures. Order of the Inter-American Court of Human Rights of March 25, 2017.

Guatemalan Congress, Oscar Chinchilla, and exchanged ideas on creating new opportunities for dialogue between the two organs and on legislative measures for implementing international human rights standards.

The President of the Inter-American Court, Judge Roberto F. Caldas, and the Secretary, Pablo Saavedra Alessandri, also met the Prosecutor General, Thelma Aldana; the Guatemalan Ombudsman, Jorge De León Duque; Liliana Valiña, representative of the United Nations High Commissioner for Human Rights, and Iván Velasquez, head of the International Commission Against Impunity in Guatemala. During the meeting, the President of the Court affirmed the importance of combating impunity as “a fundamental task and part of the right of access to justice.”



On March 20, the international seminar on the “Impact of the Inter-American Court of Human Rights in Latin American” was held in the courtroom of the Supreme Court of Justice. More than 800 people participated in the event, including senior Guatemalan authorities, diplomats, academics, members of civil society and students. Presentations were made by the judges of the Inter-American Court, as well as national judges, senior domestic authorities, representatives of international organizations and of civil society, and academic experts.

Lastly, a cooperation agreement was signed with the Universidad San Carlos de Guatemala in order to strengthen cooperation between the two institutions and promote the knowledge and dissemination of international human rights law, including the international instruments for their protection and promotion.

## 118th Regular Session



The 118th session of the Court took place in San José, Costa Rica, from May 15 to 26, 2017. The Court held six public hearings: one on a request for an advisory opinion,<sup>38</sup> two to monitor compliance with provisional measures,<sup>39</sup> and three on contentious cases.<sup>40</sup> The Court also called for a public hearing on monitoring compliance with judgment in the case of *Fontevicchia and D'Amico v. Argentina*. Deliberations were held on another three contentious cases and these continued in subsequent sessions.<sup>41</sup> Lastly, the Court delivered two interpretation judgments,<sup>42</sup>

<sup>38</sup> Request for an advisory opinion presented to the Inter-American Court of Human Rights by the Republic of Costa Rica on May 18, 2016 on gender identity, and equality and non-discrimination towards same-sex couples. State obligations in relation to the change of name, gender identity, and the rights derived from a relationship between same-sex couples (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24.

<sup>39</sup> Matter of Certain Venezuelan Prisons: Monagas Judicial Detention Center ("La Pica"); Yare I and Yare II Capital Region Prison ("Yare Prison"); Centro-Occidental Region Prison (previously known as "Uribana Prison"); El Rodeo I and El Rodeo II Capital Judicial Detention Center; Aragua Prison ("Tocorón Prison"); Ciudad Bolívar Judicial Detention Center ("Vista Hermosa Prison"), and Andean Region Prison with regard to Venezuela and Matter of Certain Prisons with regard to Brazil: Socio-educational Internment Unit, Curado Prison Complex, Pedrinhas Prison Complex and Plácido de Sá Carvalho Prison Complex.

<sup>40</sup> Case of *Ramírez Escobar et al. v. Guatemala*; Case of *Herzog et al. v. Brazil*, and Case of *Omeara Carrascal et al. v. Colombia*.

<sup>41</sup> Case of *Amrhein v. Costa Rica*, Case of *Lagos del Campo v. Peru*, and Case of *Ortiz Hernández v. Venezuela*.

<sup>42</sup> Case of *I.V. v. Bolivia*. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of May 25, 2017. Series C No. 336; Case of *Pollo Rivera et al. v. Peru*. Request for

and issued two orders on the request for provisional measures<sup>43</sup> and seven orders on monitoring compliance with judgment<sup>44</sup>.



On May 22, the President of the Inter-American Court, Judge Roberto F. Caldas, signed an agreement for cooperation and assistance in matters of human rights with the Prosecutor General of the Public Prosecution Service of the Autonomous City of Buenos Aires, Luis Jorge Cevasco. The Vice President of the Court, Judge Eduardo Ferrer Mac-Gregor, the Secretary Pablo Saavedra and the Argentine Ambassador to Costa Rica, Mariano Caucino, attended the act.

## 119th Regular Session

The Court held its 119th Regular Session at its seat in San José, Costa Rica, from August 21 to September 1, 2017. During this time, it held four public hearings<sup>45</sup> and delivered four judgments in contentious cases.<sup>46</sup>

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Interpretation of the judgment on Merits, reparations and costs. Judgment of May 25, 2017. Series C No. 335

<sup>43</sup> Case of *I.V. v. Bolivia*. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of May 25, 2017. Series C No. 336; Matter of Rojas Madrigal in relation to the Case of *Amrhein et al.* with regard to Costa Rica. Rejection of request for provisional measures. Order of the Inter-American Court of Human Rights of May 25, 2017.

<sup>44</sup> Case of *López Lone et al. v. Honduras*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 25, 2017; Case of *Pacheco Teruel et al. v. Honduras*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 23, 2017; Case of *Velásquez Paiz et al. v. Guatemala*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 23, 2017; Case of the *Río Negro Massacres v. Guatemala*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 25, 2017; Case of the *Plan de Sánchez Massacres v. Guatemala*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 25, 2017; Case of the *Kuna Indigenous People of Madungandí 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 May 23, 2017; Case of *Goiburú et al. v. Paraguay*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 23, 2017.

<sup>45</sup> Case of *Fontevicchia and D'Amico v. Argentina*. Monitoring compliance with judgment. Case of *Carvajal Carvajal et al. v. Colombia*; Request for an advisory opinion presented to the Inter-American Court of Human Rights by the State of Ecuador on August 18, 2016, on the institution of asylum, and Case of *Amrhein v.*



The Court also handed down an interpretation judgment,<sup>47</sup> and issued four orders on provisional measures<sup>48</sup> and nine orders on monitoring compliance with judgment.<sup>49</sup>

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Costa Rica.

<sup>46</sup> Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338; Case of Lagos del Campo v. Peru; Case of Gutiérrez Hernández *et al.* v. Guatemala. Preliminary objections, merits, reparations and costs. Judgment of August 24, 2017. Series C No. 340, and Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341.

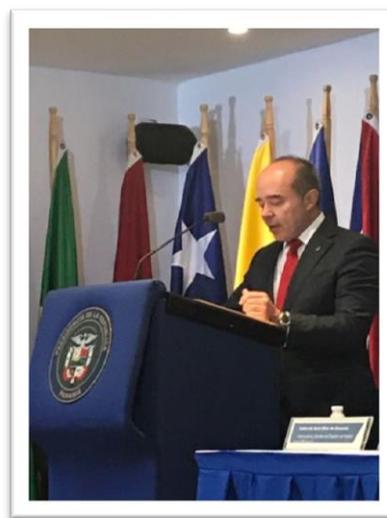
<sup>47</sup> Case of the Hacienda Brazil Verde workers v. Brazil. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of August 22, 2017. Series C No. 337.

<sup>48</sup> Matter of Mery Naranjo *et al.* with regard to Colombia. Provisional measures. Order of the Inter-American Court of Human Rights of August 22, 2017; Case of Gutiérrez Soler v. Colombia. Request for provisional measures. Order of the Inter-American Court of Human Rights of August 22, 2017, Matter of the Plácido de Sá Carvalho Prison with regard to Brazil. and Matter of the Inhabitants of the Miskitu Indigenous Peoples Communities of the Northern Caribbean Coastal Region with regard to Nicaragua. Expansion of provisional measures. Order of the Inter-American Court of Human Rights of August 22, 2017.

<sup>49</sup> Case of Garrido and Baigorria v. Argentina. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017; Case of Maldonado Vargas *et al.* v. Chile. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017; Case of Vélez Restrepo and family members v. Colombia, Order of the Inter-American Court of Human Rights of August 30, 2017; Case of the Massacres of El Mozote and neighboring places v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 31, 2017; Case of the Human Rights Defender *et al.* v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 29, 2017; Case of Maldonado Ordóñez v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017; Case of Véliz Franco *et al.* v. Guatemala. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 29, 2017; Joint order for the Case of Kawas Fernández and the Case of Luna López v. Honduras. Monitoring compliance with judgments. Order of the Inter-American Court of Human Rights of August 30, 2017; Joint order for the cases of Yakye Axa, Sawhoyamaxa and Xákmok Kásek Indigenous Communities v. Paraguay. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017.

## Fifty-eighth Special Session

The Inter-American Court held its fifty-eighth Special Session in Panama from October 16 to 20, 2017. During the inaugural ceremony, held in the Gran Metropolis Room of the Radisson Decápolis Hotel, both the President of the Inter-American Court, Judge Roberto F. Caldas, and the President of the Republic of Panama, Juan Carlos Varela, addressed those present, who included the Vice President of the Republic and Minister for Foreign Affairs, Isabel de Saint-Malo, Ministers and members of the diplomatic corps accredited to Panama, representatives of international organizations and civil society, academics and students.



During the session, the Court held three public hearings on contentious cases,<sup>50</sup> and one private hearing on monitoring compliance with judgment.<sup>51</sup>

On October 20, a seminar on the “Inter-American Court and vulnerable groups” was held in the Gran Metropolis Room of the Radisson Decápolis Hotel. The Court’s judges, together with national and international human rights experts, spoke on issues such as gender-based violence, LGBTI rights, the rights of migrants and indigenous peoples, and the main challenges for the inter-American system.

Also, during the session, the Court held meetings with various national authorities and members of civil society. On October 16, the Inter-American Court met with the justices of the Supreme Court of Justice of Panama to promote the dialogue between the two courts.

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<sup>50</sup> V.R.P. and V.P.C. v. Nicaragua; Villamizar Durán *et al.* v. Colombia, and Poblete Vilches *et al.* v. Chile.

<sup>51</sup> Case of Vélez Loor v. Panama.



On October 17, 2017, a meeting, organized in conjunction with the Office of the United Nations High Commissioner for Human Rights, was held with civil society organizations working in the area of LGBTI rights. Participants included the Court's President, Judge Roberto F. Caldas, the Regional Representative of the OHCHR, Alberto Brunori, the Court's Legal Counsel, Alexei Julio, and one of the Secretariat lawyers.

Also, on October 20, the President of the Court, Judge Roberto F. Caldas, met with 25 representatives of 17 human rights organizations to discuss the main challenges for human rights in Panama and in the region.

In the context of the OAS Inter-American Program of Judicial Facilitators a meeting was held between the President of the Inter-American Court, the OAS Representative in Panama, Pedro Vuskovic, and seven Panamanian members of the Program, who act as mediators and conciliators in the judicial task.

The President of the Inter-American Court, Judge Roberto F. Caldas, also signed two cooperation agreements. The first, on October 19, with the Council of the Judiciary of Ecuador, represented by its President, Gustavo Jalkh. The second was signed on October 20, with the Office of the Panamanian Ombudsman, represented by the Ombudsman, Alfredo Castelleros Hoyos. The purpose of these agreements is to combine the efforts of the different entities in order to

encourage training and research on human rights, the proper functioning of the institutions and the adoption of instruments for the protection of human rights.

## 120th Regular Session

The 120th Regular Session of the Court took place at its seat in San José, Costa Rica, from November 13 to 24, 2017. The Court held a public hearing on a contentious case and a private hearing to monitor provisional measures.<sup>52</sup> It also issued two advisory opinions,<sup>53</sup> delivered two judgments in contentious cases,<sup>54</sup> issued six orders on monitoring compliance with judgment,<sup>55</sup> and delivered one interpretation judgment.<sup>56</sup>



On November 23, the Inter-American Court, in plenary session, unanimously elected the current Vice President, Judge Eduardo Ferrer Mac-Gregor, as its new President and Judge Eduardo Vio Grossi as its new Vice President. The mandate of the President and Vice President elect will commence on January 1, 2018. [here](#).

<sup>52</sup> *Selvas Gómez et al. v. Mexico* and *Matter of the Peace Community of San José de Apartadó* with regard to Colombia.

<sup>53</sup> Advisory Opinion OC-23 presented by Colombia and OC-24 presented by Costa Rica.

<sup>54</sup> *Case of Pacheco León v. Honduras* and *Case of the Dismissed Employees of PetroPeru v. Peru*.

<sup>55</sup> *Case of Cantos v. Argentina*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017; *Case of García Ibarra et al. v. Ecuador*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017; *Case of Heliodoro Portugal v. Panama*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017; *Case of I.V. v. Bolivia*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017; *Case of Luna López v. Honduras*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017.

<sup>56</sup> *Case of Yarce et al. v. Colombia*. Interpretation of the judgment on preliminary objection, merits, reparations and costs. Judgment of November 21, 2017. Series C No. 343.

On November 15, a cooperation agreement was signed by the Inter-American Court and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). On November 21 and 24, the Court signed institutional cooperation agreements with the Office of the Attorney General of the Republic of Colombia and with the Federal Public Prosecution Service of the Federative Republic of Brazil, respectively.

On November 21 and 22, the full Court held meetings with the President of the American Affairs Commission of the International Union of Notaries, David Figueroa Marquéz, the Executive Director, Guillermo Sandí Baltodano, and the President of the Costa Rican Notaries Board, Laura Mora Camacho. The purpose of both meetings was to coordinate training opportunities offered by the Court. In addition, on November 24, agreements were signed with the Faculty of Law of the Universidade do São Paulo, Brazil, and the Costa Rican International Law Association (ACODI).

On November 24 also, the Attorney General of the Federative Republic of Brazil, Raquel Dodge, gave a talk on "The Role of the Public Prosecution Service in the defense of human rights." Immediately after this, the final of the Eduardo Jimenez Arréchaga, "Moot Court" competition was held in the courtroom of the Court, where the Judges Roberto F. Caldas, Eduardo Ferrer MacGregor, Elizabeth Odio Benito and Raúl Zaffaroni, and the Deputy Secretary Emilia Segares Rodríguez acted as judges.

## Results table of the sessions

|  | Period |      |       |       |      |       |
|--|--------|------|-------|-------|------|-------|
|  | 117RS  | 57SS | 118RS | 119RS | 58SS | 120RS |
| Hearings contentious cases               | 4      | 2    | 3     | 2     | 3    | 1     |
| Hearings provisional measures            |        |      | 2     | 1     |      | 1     |
| Hearings monitoring measures             | 1      | 2    |       | 1     | 1    |       |
| Hearings request for an advisory opinion |        | 1    | 1     | 1     |      |       |
| Judgments contentious cases              | 3      | 1    | 2     | 4     |      | 3     |
| Interpretation judgments                 |        |      | 2     | 1     |      |       |
| Orders on provisional measures           | 3      | 1    | 2     | 4     |      |       |
| Orders monitoring compliance             | 5      |      | 8     | 9     |      | 5     |
| Advisory opinions                        |        |      |       |       |      | 2     |

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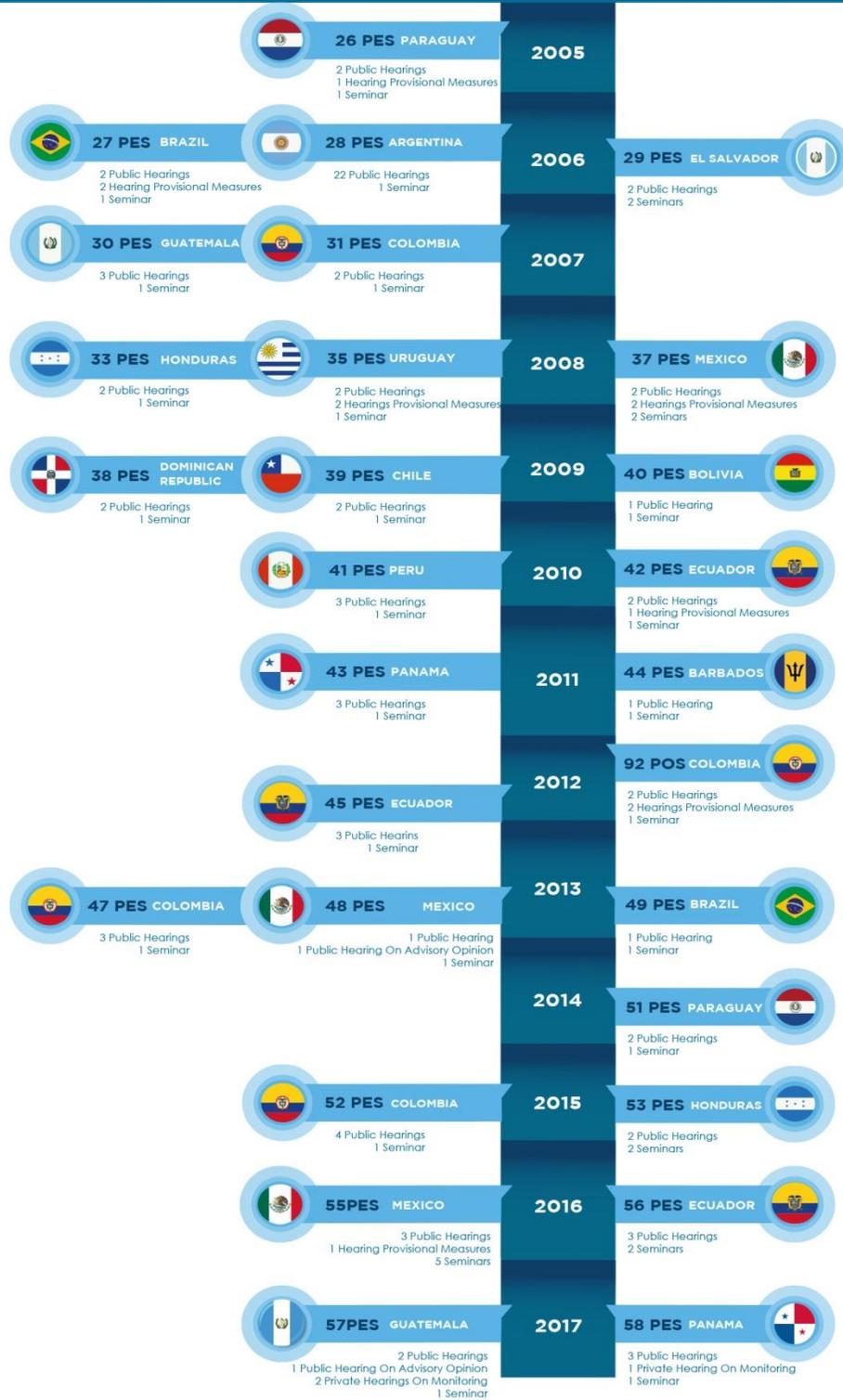
## C. The sessions of the Inter-American Court away from its seat

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Starting in 2005, the Inter-American Court has held special sessions away from its seat in San José, Costa Rica. In order to hold such sessions, the Court has travelled to Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, and Uruguay. This initiative enables the Court to combine two objectives: on the one hand, to increase its judicial activities and, on the other, to disseminate the important work of the Inter-American Court in particular, and the inter-American system for the protection of human right in general. During 2017, two special sessions were held, the first in Guatemala City from May 20 to 28, and the second in Panama City from October 16 to 20.

# SESSIONS OF THE I/A COURT AWAY FROM ITS SEAT

From 2005 to 2017



## IV. Contentious function

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### A. Cases submitted to the Court

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During 2017, 18 new contentious cases were submitted to the Court's consideration:

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

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On March 15, the Commission submitted this case to the Inter-American Court. It relates to the presume series of threats, aggression, intimidation and harassment suffered by Judge María Eugenia Villaseñor, who had participated in diverse judicial proceedings between 1991 and 2012, some with national or international impact. During those years, she allegedly suffered: (i) searches of her home; (ii) death threats; (iii) an attempt to abduct her daughter; (iv) the abduction of one of the agents who guarded her home; (v) a beating of her sister; (vi) the death of a niece who was run over by a car; (vii) the theft of personal information; (viii) attempts to break into her car, destruction of tires and telephone cable, and (ix) statements and communications by unidentified individuals denigrating her actions as a judge. The reports and other information that the State was aware of had not been investigated appropriately to identify the sources of the danger, eliminate them and impose sanctions. It was alleged that the facts remain unpunished.

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#### Case of Órdenes Guerra et al. v. Chile

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On May 17, the Inter-American Commission submitted this case to the Court. It relates to the alleged responsibility of Chile for the presumed violation of the rights to judicial guarantees and judicial protection owing to the application of the statute of limitations to civil actions seeking reparation related to alleged crimes against humanity. The presumed victims are seven groups of persons who had filed civil actions for reparation based on the disappearance and/or assassination of family members, presumably committed by state agents in 1973 and 1974 during the military dictatorship. These actions had been rejected in final instance by application of the statute of limitations established in the Civil Code.

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#### Case of Munárriz Escobar et al. v. Peru

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On June 9, the Commission submitted this case to the Court. It relates to the alleged enforced disappearance of Walter Munárriz Escobar. The presumed victim's whereabouts are unknown since March 29, 1999, after he was allegedly arrested in the Los Manolos Lodging House by police agents and taken to the Lircay police station where, allegedly, he had been deprived of liberty. Although the Peruvian State argued that Walter Munárriz Escobar had been set free, it is alleged that there is no documentary proof of his release, that the testimony produced by the State and that would constitute the only evidence of Mr. Munárriz Escobar's supposed release does not

meet minimum standards of credibility.

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### Case of *Álvarez Ramos v. Venezuela*

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On July 5, the Commission submitted this case to the Court. It relates to the presumed violation of the right to freedom of expression, political rights and the right to freedom of movement of Tulio Álvarez Ramos, owing to criminal proceedings against him based on the alleged commission of the offense of aggravated defamation. In addition, the presumed violation of the right to presumption of innocence and other guarantees of due process during the trial against him are alleged.

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### Case of *Muelle Flores v. Peru*

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On July 13, the Commission submitted this case to the Court. It relates to the presumed violation of the right effective judicial protection as a result of the supposed failure to comply, for 24 years, with a court judgement in favor of Mr. Muelle Flores in the context of an *amparo* decision ordering his reincorporation into the pension regime under Decree Law No. 20530. It is alleged that the Peruvian authorities had failed to comply with the court judgment in favor of Mr. Muelle and that the judicial mechanisms used subsequently in order to achieve compliance had been ineffective.

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### Case of *Colindres v. El Salvador*

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On September 8, the Commission submitted this case to the Court. It relates to the removal of Eduardo Benjamín Colindres from his post as a justice of the Supreme Electoral Tribunal by the Legislative Assembly on March 17, 1998, which presumably violated numerous guarantees of due process, including the right to a competent judge and the guarantee of impartiality, and the principle of legality.

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### Case of the *National Association of Former and Retired Employees of the National Tax Administration Superintendence v. Peru*

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On September 15, the Commission submitted this case to the Court. It relates to the presumed violation of the right to judicial protection owing to the alleged failure to execute an October 1993 judgment of the Supreme Court of Justice of Peru that recognized right to a pension to the members of the National Association of Former and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT). The Commission considered it proved that the Peruvian Judiciary, during the process of execution of judgment, had not applied the measures required to resolve certain aspects that were essential for the implementation of the judgment in favor of a group of pensioners, such as the authority responsible for complying with the judgment, its beneficiaries, and its patrimonial implications on the amount of the pensions, as well as amounts they failed to receive over the intervening years. The Commission added that, more than 23 years after the first judgment in favor of the members of the ANCEJUB-SUNAT, the State presumably continued to violate their right to effective judicial protection due to the failure

to execute the final judgment handed down in their favor, as well as the ineffectiveness of the judicial mechanisms used subsequently to achieve this.

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### Case of Rosadio Villavicencio v. Peru

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On September 22, the Commission submitted this case to the Court. It relates to the presumed different violations of due process committed during three proceedings: (i) disciplinary administrative; (ii) criminal, and (iii) military criminal, which were filed against Jorge Rosadio Villavicencio based on his actions in an intelligence operation in which he was supposed to infiltrate drug-trafficking groups in the area of Sion in Peru in order to capture the drug traffickers.

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### Case of Jenkins v. Argentina

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On September 22, the Commission submitted this case to the Court. It relates to the presumed arbitrary deprivation of liberty of Gabriel Oscar Jenkins from June 8, 1994, to November 13, 1997, in the context of a case relating to the offenses of the illegal drug-trafficking and unlawful association, of which he was ultimately acquitted.

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### Case of Escaleras Mejía and family v. Honduras

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On September 22, the Commission submitted this case to the Court. It relates to the presumed international responsibility of the State of Honduras for the death of the environmentalist Carlos Escaleras Mejía on October 18, 1997, and the alleged situation of partial impunity of this fact. The Commission concluded that the State had not provided an effective judicial response to the death of Mr. Escaleras Mejía because the police, prosecutors and judicial authorities had not implemented the minimum basic procedures in keeping with inter-American standards in this type of case. The Commission also concluded, that the State had failed to obtain evidence in order to implement, seriously and exhaustively, basic lines of investigation that would respond to the indications linking at least three state authorities to the act and that were evident from the start. In addition, the Commission noted that all the possible masterminds had not been investigated and that, during the investigation, egregious acts of possible reprisal and pressure occurred involving individuals who took part in the investigations and, despite this, no investigation into such facts was carried out. The Commission concluded that, because 17 years had elapsed since Mr. Escaleras Mejía's death, this constituted a violation of the guarantee of a reasonable time, and indicated that all the above factors form part of a more general situation related to the high rates of impunity of criminal acts perpetrated against environmentalists.

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### Case of Perrone and Preckel v. Argentina

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On October 19, the Commission submitted this case to the Court. It relates to the presumed violation of the rights to judicial guarantees and judicial protection in the administrative and judicial proceedings filed by Elba Clotilde Perrone and Juan José Preckel to require the payment of loss of earning and social benefits in the state entity in which they worked owing to their supposed arbitrary deprivation of liberty by state agents in 1976 during the military dictatorship.

The Commission considered that fact that administrative and judicial proceedings has lasted for more than 12 years exceeded the time that could be considered reasonable. It also concluded that the administrative and judicial authorities presumably violated the right to a satisfactory and sufficient reasoning of decisions. Furthermore, the Commission considered that, as they had violated the said guarantees of due process, the administrative and judicial proceedings also entailed a violation of the right to judicial protection.

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### Case of Rico v. Argentina

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On November 10, the Commission submitted this case to the Court. It relates to the alleged removal of Eduardo Rico as a judge of Labor Court No. 6 of the Judicial District of San Isidro in Argentina and the prohibition for him to occupy any other post in the Judiciary decided by a Trial Jury (*Jurado de Enjuiciamiento*) because he had allegedly committed disciplinary offenses. The Commission considered that the State had violated the right to appeal the decision in relation to the obligation to respect rights and the obligation to adopt provisions under domestic law, taking into account that Law 8085 established that there was no appeal against the decisions of the Trial Jury and, therefore, the victim was presumably unable to obtain a review of the facts that had been established, the evidence used or the disciplinary grounds applied.

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### Case of Gómez Virula and family v. Guatemala

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On November 17, the Inter-American Commission submitted this case to the Court. It relates to the presumed disappearance and subsequent assassination of Alejandro Yovany Gómez Virula in March 1995. It is argued that the Guatemalan State is presumably responsible for the violation of the rights to life, personal integrity and personal liberty of Mr. Gómez because it did not take any measure to search for him when it became aware of the victim's disappearance. It is also argued that, up until the time the body of Mr. Gómez was found, the State had the obligation to take immediate and diligent steps to seek and protect the victim, which it did not do. In addition, it is argued that the State violated the right to freedom of association of Mr. Gómez because, although there was significant evidence that the disappearance and assassination of Mr. Gómez Virula could have been linked to his activities as a trade union leader, Guatemala has not carried out any kind of investigation in this regard.

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### Case of Ruiz Fuentes v. Guatemala

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On November 30, the Commission submitted this case to the Court. It relates to a presumed series of violations of due process committed in the context of the criminal proceedings against the presumed victim for the offense of kidnapping that culminated in the death sentence, as well as to alleged torture perpetrated at the time of his arrest. It is alleged that the presumed victim had been extrajudicially executed after he escaped from prison in 2005. It was alleged that his right to due process was violated during the criminal proceedings.

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### Case of *Martínez Coronado v. Guatemala*

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On November 30, the Commission submitted this case to the Court. It relates to a presumed series of violations of due process committed in the context of the criminal proceedings against the presumed victim that culminated in the death sentence by lethal injection. It is alleged that the principle of legality was not complied with, and also that the common defense counsel of the victim and his co-accused had violated the right to have adequate means for the preparation of a defense and the right to be assisted by counsel provided by the State. Consequently, it is argued that his right to life had been violated because the death penalty was applied, despite the two supposed violations of due process indicated above.

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### Case of *Girón and Castillo v. Guatemala*

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On November 30, the Commission submitted this case to the Court. It relates to a presumed series of violations of due process committed in the context of the criminal proceedings against the presumed victims that culminated in the death penalty, and their televised execution by a firing squad. It is alleged that the State had violated the rights of the presumed victims to adequate time and means for the preparation of their defense and the right to be assisted by counsel provided by the State. In addition, it is argued that the way in which the death sentence was carried out by a firing squad was incompatible with the right to personal integrity and the prohibition of torture because it was not designed to cause the least possible physical suffering as required by international standards.

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### Case of *Díaz Loreto and family members v. Venezuela*

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On December 6, the Commission submitted this case to the Court. It relates to the alleged international responsibility of the State of Venezuela for the extrajudicial executions of the brothers, Robert Ignacio and David Octavio Díaz Loreto, and their father, Octavio Ignacio Díaz Álvarez, on January 6, 2003, presumably by police agents from the Public Order and Security Corps of Aragua state in Venezuela (CSOPEA). In addition, it is alleged that supposed violations of judicial guarantees and protection were committed during the investigation and criminal proceedings relating to these acts. The Commission determined that presumed violation of the mental and moral integrity of the family members owing to the pain and suffering inherent in the circumstances in which the three presumed victims lost their life, as well as the alleged lack of response to the actions to obtain justice they have undertaken; particularly in a context in which they have reported threats and harassment against them owing to the efforts they have made in this regard.

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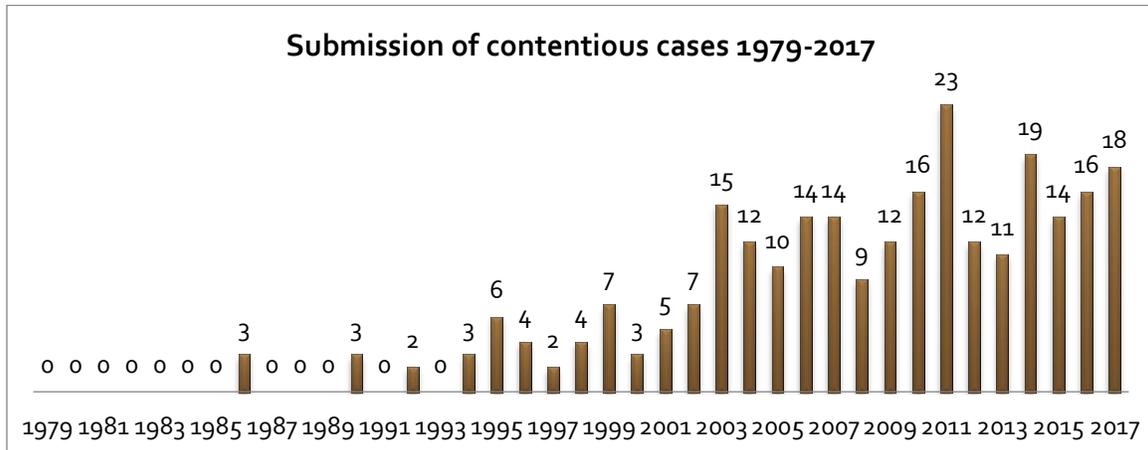
### Case of *Arrom Suhurt et al. v. Paraguay*

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On December 12, the Commission submitted this case to the Court. It relates to the alleged enforced disappearance and torture of Juan Francisco Arrom Suhurt and Anuncio Martí Méndez, presumably leaders of the political movement, Patria Libre, from January 17 to 30, 2002. Messrs. Arrom and Martí reported that they had been detained by state agents who apparently questioned them about their political activities and exerted pressure on them to admit they had

abducted María Edith Bordón de Debernardi. The petitioners stated that their next of kin looked for them until they found them. Presumably Messrs. Arrom and Martí obtained refugee status Brazil on December 1, 2003. In addition, it is argued that, during the judicial proceedings to investigate the abduction of María Edith Bordón, Messrs. Arrom and Martí were declared in contempt of court because they failed to appear.

As can be seen from the following table, in 2017, the Inter-American Commission submitted eighteen cases.



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## B. Hearings

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The principle of immediacy is fundamental for the satisfactory development of proceedings, as well as an essential part of the right of access to inter-American justice. Accordingly, in 2017, fifteen public hearings were held on contentious cases. During these hearings, the Court received the oral statements of twenty-one presumed victims, eight witnesses, twenty-one expert witnesses, and one deponent who provided information, which represents a total of fifty-one statements. Details of the oral statements received in each hearing appear below.

All the hearings were transmitted live on the Court's website, and the recordings can be found at the following link: here

<http://www.corteidh.or.cr> and <https://livestream.com/accounts/1404510>



Public hearings held by the Court  
January - December 2017

| Session       | Case   | Presumed victims | Witnesses proposed by: |       | Experts proposed by: |       |       | Deponent providing information | Link to order issuing call to the hearing |
|---------------|--|------------------|------------------------|-------|----------------------|-------|-------|--------------------------------|---|
|               |  |                  | Reps.                  | State | Reps.                | State | IACHR |                                |   |
| 117th RS      | Lagos del Campo v. Peru                            | 1                |                        |       |                      | 1     | 1     |                                | <a href="#">Here</a>                      |
| 117th RS      | Amrhein <i>et al.</i> v. Costa Rica                |                  |                        |       |                      |       |       |                                | <a href="#">Here</a>                      |
| 117th RSr     | Ortiz Hernández v. Venezuela                       | 2                | 1                      | 1     |                      |       |       |                                | <a href="#">Here</a>                      |
| 117th RS      | San Miguel Sosa <i>et al.</i> v. Venezuela         | 1                |                        |       | 1                    | 1     | 1     |                                | <a href="#">Here</a>                      |
| 57th SS       | Xucuru Indigenous People and its members v. Brazil |                  | 1                      |       |                      |       | 1     |                                | <a href="#">Here</a>                      |
| 57th SS       | Pacheco León v. Honduras                           | 2                |                        |       | 1                    |       | 1     |                                | <a href="#">Here</a>                      |
| 118th RS      | Ramírez Escobar <i>et al.</i> v. Guatemala         | 2                |                        |       | 1                    |       |       |                                | <a href="#">Here</a>                      |
| 118th RS      | Herzog <i>et al.</i> v. Brazil                     | 1                | 1                      |       | 1                    | 1     |       |                                | <a href="#">Here</a>                      |
| 118th RS      | Omeara Carrascal <i>et al.</i> v. Colombia         | 1                |                        | 1     |                      |       |       |                                | <a href="#">Here</a>                      |
| 119th RS      | Carvajal <i>et al.</i> v. Colombia                 | 1                |                        | 1     |                      |       | 1     |                                | <a href="#">Here</a>                      |
| 119th RSr     | Amrhein <i>et al.</i> v. Costa Rica                |                  |                        |       |                      |       |       |                                | <a href="#">Here</a>                      |
| 58th SS       | V.R.P and V.P.C v. Nicaragua                       | 2                | 2                      |       | 1                    |       | 1     |                                | <a href="#">Here</a>                      |
| 58th SS       | Villamizar Durán <i>et al.</i> v. Colombia         | 2                |                        |       | 1                    | 1     | 1     |                                | <a href="#">Here</a>                      |
| 58th Special  | Poblete Vilches <i>et al.</i> v. Chile             | 1                |                        | 1     | 1                    |       | 1     |                                | <a href="#">Here</a>                      |
| 120th Regular | Selvas Gómez <i>et al.</i> v. Mexico               | 5                |                        |       |                      |       | 1     | 1                              | <a href="#">Here</a>                      |

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## C. Judgments

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During 2017, the Court issued a total of fourteen judgments, divided into ten judgments on preliminary objections, merits, reparations and costs, and four interpretation judgments.

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

### 1. Judgments in contentious cases

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#### *Case of Zegarra Marín v. Peru. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 331.*

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**Summary:** This case was submitted by the Inter-American Commission on August 22, 2014, and relates to the violation of the principle of the presumption of innocence and the obligation to provide a statement of reasons to the detriment of Mr. Zegarra Marín, who was convicted of offenses against the administration of justice (complicity), against public trust (falsification of general documentation), and corruption of public officials.

**Ruling:** The Court declared the State of Peru responsible for violating due process, and for violations of the presumption of innocence, the obligation to provide the grounds for the judicial decisions, the right to appeal the judgment, and judicial protection to the detriment of Agustín Bladimiro Zegarra Marín. The Court also considered that the State had not violated the right to an appeal for review.

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

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#### *Case of Vásquez Durand et al. v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332.*

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**Summary:** This case was submitted by the Commission on July 8, 2015, and relates to the enforced disappearance of the Peruvian citizen, Jorge Vásquez Durand, in the context of the international armed conflict of the Alto Cenepa between Ecuador and Peru.

**Ruling:** The Court declared the State of Ecuador responsible for the enforce disappearance of the Peruvian citizen, Jorge Vásquez Durand. The Court also concluded that Ecuador had violated judicial guarantees, judicial protection, and the right to integrity and to know the truth of the next of kin of Mr. Vásquez Durand.

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

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**Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333.**

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**Summary:** This case was submitted by the Commission on May 19, 2015, and relates to the lack of the due investigation and punishment of those responsible for the extrajudicial executions of 26 persons and the rape of three women during two police raids of the Favela Nova Brasilia by the Civil Police of Río de Janeiro.

**Ruling:** The Court declared the violation of the right to judicial guarantees and to judicial protection, because it was the same police agents who had been accused of responsibility for the deaths who investigated the facts and, moreover, because the investigations did not meet the minimum standards of due diligence in cases of extrajudicial executions and serious human rights violations, and because other state organs had the opportunity to rectify the investigation and did not do so.

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

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**Case of Acosta et al. v. Nicaragua. Preliminary objections, merits, reparations and costs. Judgment of March 25, 2017. Series C No. 334.**

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**Summary:** This case was submitted by the Commission on July 29, 2015, and relates to the lack of a diligent investigation into the murder of Francisco García Valle, husband of María Luisa Acosta (human rights defender).

**Ruling:** The Court found the State responsible for violation of the rights of access to justice, to the truth, to judicial guarantees and judicial protection of Mrs. Acosta and other members of Mr. García Valle's family, because it did not carry out a serious, diligent and complete investigation of the theory that Mr. García Valle could have been murdered by individuals whose interests could be affected by Mrs. Acosta's activities in defense of the indigenous peoples.

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

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**Case of Ortiz Hernández et al v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338.**

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**Summary:** This case was submitted by the Commission on May 13, 2015, and relates to the death of the National Guard cadet, Johan Alexis Ortiz Hernández, from a wound from a bullet fired by a weapon during a military exercise or practice on military premises.

**Ruling:** The Court found the State of Venezuela responsible for failing to ensure the rights to life and personal integrity of Johan Alexis Ortiz Hernández. The Court also determined that Venezuela had violated the right of Access to justice of his parents because it had processed the proceedings before the military jurisdiction, because of errors in the investigation and in the proceedings, and because of the impunity that still exists.

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

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**Case of Gutiérrez Hernández et al. v. Guatemala. Preliminary objections merits, reparations and costs. Judgment of August 24, 2017. Series C No. 339.**

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**Summary:** This case was submitted by the Commission on July 15, 2015, and relates to the disappearance of Mayra Angelina Gutiérrez Hernández since April 7, 2000, and the lack of a serious, diligent and timely investigation into what happened.

**Ruling:** The Court declared that the State was internationally responsible for the violation of the rights to equal protection of the law and non-discrimination in access to justice during the investigations into the disappearance of Mayra Angelina Gutiérrez Hernández. The Court underlined that the stereotyped appraisal of Mayra Gutiérrez and the prejudgment of the reasons for her disappearance, focusing the investigation on her personal relationships and lifestyle, impaired the objectivity of the agents in charge of the investigation, and closed down possible lines of investigation into the circumstances of the case. In view of the fact that the investigation focused solely on the line of a “crime of passion,” the Court reiterated that this concept forms part of a stereotype that justifies violence against women because, by qualifying the offense as the result of “passion,” the emphasis is placed on justifying the conduct of the perpetrator. Accordingly, the Inter-American Court rejected any state practice that justifies violence against a woman and blames her for this.

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

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**Case of Lagos del Campo v. Peru. Preliminary objections merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340.**

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**Summary:** This case was submitted by the Commission on November 28, 2015, and relates to the dismissal of Alfredo Lagos del Campo on June 26, 1989, as a result of certain statements he made when President of the Electoral Committee of the Industrial Community of the company, Ceper-Pirelli. The purpose of the statements made by Mr. Lagos del Campo was to denounce and call attention to supposed acts of undue interference of the employers in the life of the organizations representing the company's workers and in the internal elections of the Industrial Community. The decision to dismiss him was subsequently confirmed by Peru's domestic courts.

**Ruling:** The Court declared, for the first time, a violation of Article 26 of the American Convention on Human Rights, relating to the economic, social and cultural rights, as a result of the violation of the right to work and, in particular, the rights to employment stability and freedom of association. The Court also found that the State was internationally responsible for the irregular dismissal of Alfredo Lagos del Campo, and the violation of the rights to freedom of thought and expression. In addition, the Court found that Peru was responsible for the violation of the rights to freedom of association and access to justice.

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

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### Case of Vereda La Esperanza v. Colombia. Preliminary objections merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341.

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**Summary:** This case was submitted by the Inter-American Commission on December 13, 2014, and relates to the enforced disappearance of 12 persons. These facts, attributed to the Campesino Self-Defense Force of the Magdalena Medio (ACMM), took place between June 21 and December 27, 1996, in the “Vereda La Esperanza” in the municipality of El Carmen de Viboral, department of Antioquia. The victims of these events were supposedly perceived to supporters of, or collaborators with, the guerrilla groups active in the region.

**Ruling:** The Inter-American Court found the State of Colombia responsible for the enforced disappearance of 12 persons, including three children, and also for the arbitrary deprivation of the life of another. The Court also considered that the State was responsible for violating the right of access to justice of the victims and their next of kin owing to the investigations into the events, and for the violation of the right to personal integrity of the direct family members of the victims, as well as the right to property and the inviolability of the home owing to the search and destruction of the property and possessions of two victims.

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

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### Case of Pacheco León v. Honduras. Merits, reparations and costs. Judgment of November 15, 2017. Series C No. 342.

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**Summary:** This case was submitted by the Inter-American Commission on November 13, 2015, and relates to the lack of a diligent investigation into the murder of Ángel Pacheco León, who was a candidate for the post of deputy for the National Party in the department of Valle. The murder was committed around midnight on November 23, 2001. The investigation into the murder remains open and was inactive for prolonged periods.

**Ruling:** The Court concluded that the State had not conducted a diligent investigation that would, within a reasonable time, make progress in determining the facts and the responsibilities. After 16 years, the murder remains unpunished. Consequently, the Court found that Honduras

had violated the rights to judicial guarantees and to judicial protection of 19 of Ángel Pacheco León's family members. It also established that the way in which the investigation was conducted violated the personal integrity of Mr. Pacheco León's mother and his companion, one of his children, his brother and his sister.

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

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**Case of the Dismissed Employees of PetroPeru et al. v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 23, 2017. Series C No. 344.**

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**Summary:** This case was submitted by the Inter-American Commission on August 13, 2015, and relates to a series of collective dismissals of public sector workers. These dismissals were conducted under programs of personnel evaluation and rationalization, in application of different decree-laws approved by the Executive branch.

**Ruling:** The Court considered that the right to work of the dismissed workers had been violated autonomously. It also found the State responsible for violating the right of access to justice of 164 workers.

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

## 2. Interpretation judgments

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**Case of Pollo Rivera et al. v. Peru. Request for interpretation of the judgment on merits, reparations and costs. Judgment of May 25, 2017. Series C No. 335.**

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**Summary:** On March 13, 2017, the State presented a request for interpretation of the judgment for the Court to clarify whether it had analyzed the conventionality of articles 321 of the Peruvian Penal Code and 4 of Decree-Law 25475; whether the judgment indicated any appropriate or proper way to provide grounds for a conviction in application of any of the theories of the criminal law relating to the offender rather than the offense, and regarding the scope of the obligation to investigate acts of torture or other cruel, inhuman or degrading treatment.

**Ruling:** The Court rejected the request for interpretation as inadmissible.

Find [here](#) the judgment.

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**Case of I.V. v. Bolivia. Interpretation of the judgment on preliminary objections merits, reparations and costs. Judgment of May 25, 2017. Series C No. 336.**

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**Summary:** On March 19, 2017, the victim's representative submitted a request for interpretation to the Court concerning three aspects of the judgment: (1) the legal reason why the Court used the terminology "non-consensual or involuntary sterilization," instead of "forced or compulsory sterilization"; (2) the supposed lack of clarity regarding the Court's decision not to rule on the alleged violation of the right to recognition of juridical personality, and (3) the reparation ordered in relation to adequate care for the victim's physical and psychological ailments.

**Ruling:** The Court rejected the three points of the request for interpretation as inadmissible.

Find [here](#) the judgment.

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**Case of the Hacienda Brazil Verde workers v. Brazil. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of August 22, 2017. Series C No. 337.**

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**Summary:** On March 15, 2017, the State presented a request for interpretation of the judgment concerning the payment of costs and expenses, as well as on the method of complying with the payments ordered.

**Ruling:** The Court determined that the request for interpretation of the judgment was inadmissible as regards the payment of costs and expenses and any interest on arrears. In addition, the Court determined the meaning and scope of the decisions in the judgment regarding the method of complying with the payments ordered.

Find [here](#) the judgment.

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**Case of Yarce et al. v. Colombia. Interpretation of the judgment on preliminary objection, merits, reparations and costs. Judgment of November 21, 2017. Series C No. 343.<sup>57</sup>**

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<sup>57</sup> Judges Roberto F. Caldas; Eduardo Ferrer Mac-Gregor Poisot; Manuel E. Ventura Robles, and Eduardo Vio Grossi, together with Judges Diego García-Sayán and Alberto Pérez Pérez, delivered the judgment on preliminary objection, merits, reparations and costs. Judge Humberto Antonio Sierra Porto, a Colombian national, did not take part in the deliberation of the judgment, pursuant to Articles 19(2) of the Court's Statute and 19(1) of its Rules of Procedure. Accordingly, he did not participate in the hearing of the requests for interpretation of judgment, and the President accepted his recusal. Judge Alberto Pérez Pérez died on September 2, 2017. Consequently, Judge Eugenio Raúl Zaffaroni, who is a current member of the Court, and did not intervene in the delivery of the said judgment, completed the composition of the Court in order to deliver this interpretation judgment, in accordance with Articles 17(1), 14 and 68(3) of the Court's Rules of Procedure, and 13(2) and 4(2) of its Statute.

**Summary:** On April 7, 2017, the State submitted a request for interpretation of judgment to the Court, to clarify several aspects of the compensation payments. Also, on April 10, 2017, the representatives submitted a request for interpretation of judgment to the Court to clarify aspects different measures of reparation.

**Ruling:** The Court clarified some of these aspects in its interpretation judgment and rejected others.

Find [here](#) the judgment.

## JUDGMENTS ON MERITS AND INTERPRETATION JUDGMENTS, 2017



### BRAZIL

- IACourHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333.
- IACourHR. Case of the Hacienda Brazil Verde workers v. Brazil. Interpretation of the judgment on preliminary objections merits, reparations and costs. Judgment of August 22, 2017. Series C No. 337.

### BOLIVIA

- IACourHR. Case of I.V. v. Bolivia. Interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of May 25, 2017. Series C No. 336.

### COLOMBIA

- IACourHR. Case of Yarce et al. v. Colombia. Interpretation of the judgment on preliminary objection, merits, reparations and costs. Judgment of November 21, 2017. Series C No. 343.
- IACourHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341.

### ECUADOR

- IACourHR. Case of Vásquez Durand et al. v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332.

### GUATEMALA

- IACourHR. Case of Gutiérrez Hernández et al. v. Guatemala. Preliminary objections merits, reparations and costs. Judgment of August 24, 2017. Series C No. 339.

### HONDURAS

- IACourHR. Case of Pacheco León v. Honduras. Merits, reparations and costs. Judgment of November 15, 2017. Series C No. 342.

### NICARAGUA

- IACourHR. Case of Acosta et al. v. Nicaragua. Preliminary objections, merits, reparations and costs. Judgment of March 25, 2017. Series C No. 334.

### PERU

- IACourHR. Case of Lagos del Campo v. Peru. Preliminary objections merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340.
- IACourHR. Case of Pollo Rivera et al. v. Peru. Request for interpretation of the judgment on Merits, reparations and costs. Judgment of May 25, 2017. Series C No. 335.
- IACourHR. Case of Zegarra Marín v. Peru. Preliminary objections merits, reparations and costs. Judgment of February 15, 2017. Series C No. 331.
- IACourHR. Case of the Dismissed Employees of PetroPeru et al. v. Peru. Preliminary objections merits, reparations and costs. Judgment of November 23, 2017. Series C No. 344.

### VENEZUELA

- IACourHR. Case of Ortiz Hernández et al. v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338.

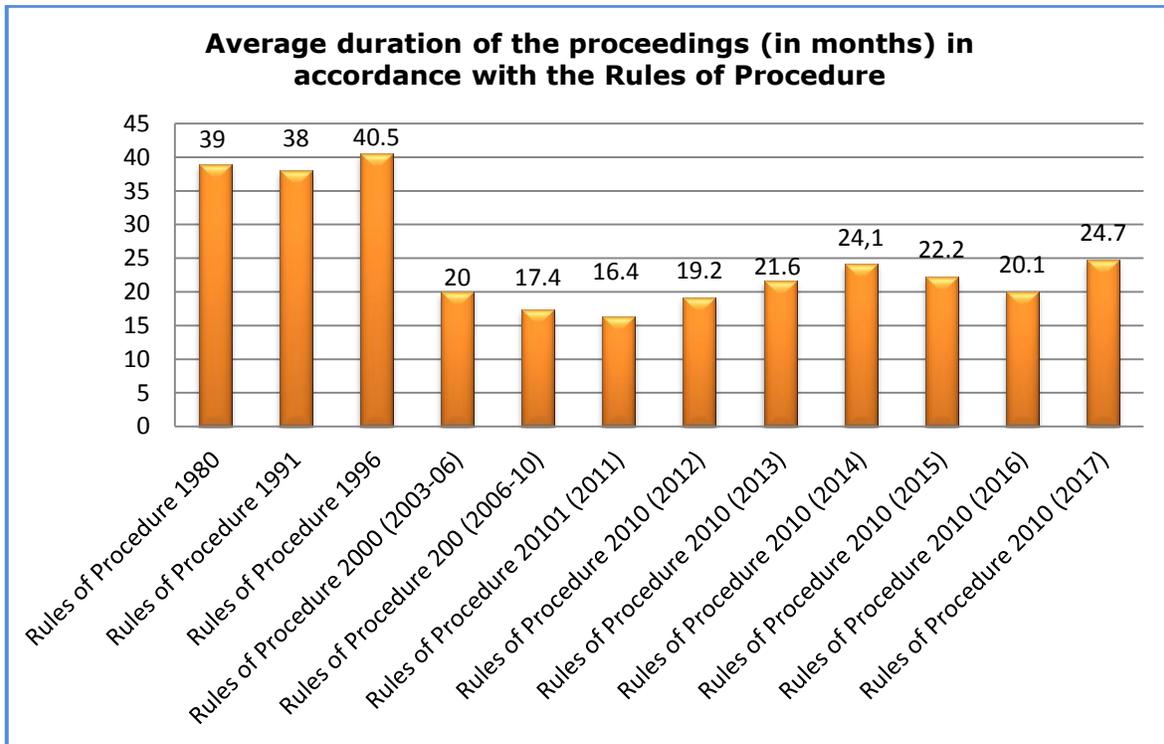
## D. Average time required to process cases

Each year the Court makes a great effort to decide the cases before it promptly. The principle of a reasonable time established in the American Convention and the Court's consistent case law is applicable not only to the domestic proceedings in each State Party, but also to the international

organs or courts whose function it is to decide petitions concerning presumed human rights violations.

In 2017, the average time required to process cases before the Court was approximately 24,7 months.

| Average time required to process cases                 |                                     |                                 |                   |
|--|-------------------------------------|---------------------------------|-------------------|
| Case   | Submission of the case by the IACHR | Judgment delivered by the Court | Months (approx..) |
| Zegarra Marín v. Peru                                  | August 22, 2014                     | February 15, 2017               | 30                |
| Vásquez Durand <i>et al.</i> v. Ecuador.               | July 8, 2015                        | February 15, 2017               | 19                |
| Favela Nova Brasília v. Brazil                         | May 19, 2015                        | February 16, 2017               | 21                |
| Acosta <i>et al.</i> v. Nicaragua                      | July 29, 2015                       | March 25, 2017                  | 20                |
| Gutiérrez Hernández <i>et al.</i> v. Guatemala         | July 15, 2015                       | August 24, 2017                 | 25                |
| Ortiz Hernández <i>et al.</i> v. Venezuela             | May 13, 2015                        | August 22, 2017                 | 27                |
| Lagos del Campo v. Peru.                               | November 28, 2015                   | August 31, 2017                 | 22                |
| Vereda La Esperanza v. Colombia                        | December 13, 2014                   | August 31, 2017                 | 32                |
| Pacheco León <i>et al.</i> v. Honduras                 | November 13, 2015                   | November 15, 2017               | 24                |
| Dismissed Employees of PetroPeru <i>et al.</i> v. Peru | August 13, 2015                     | November 23, 2017               | 27                |

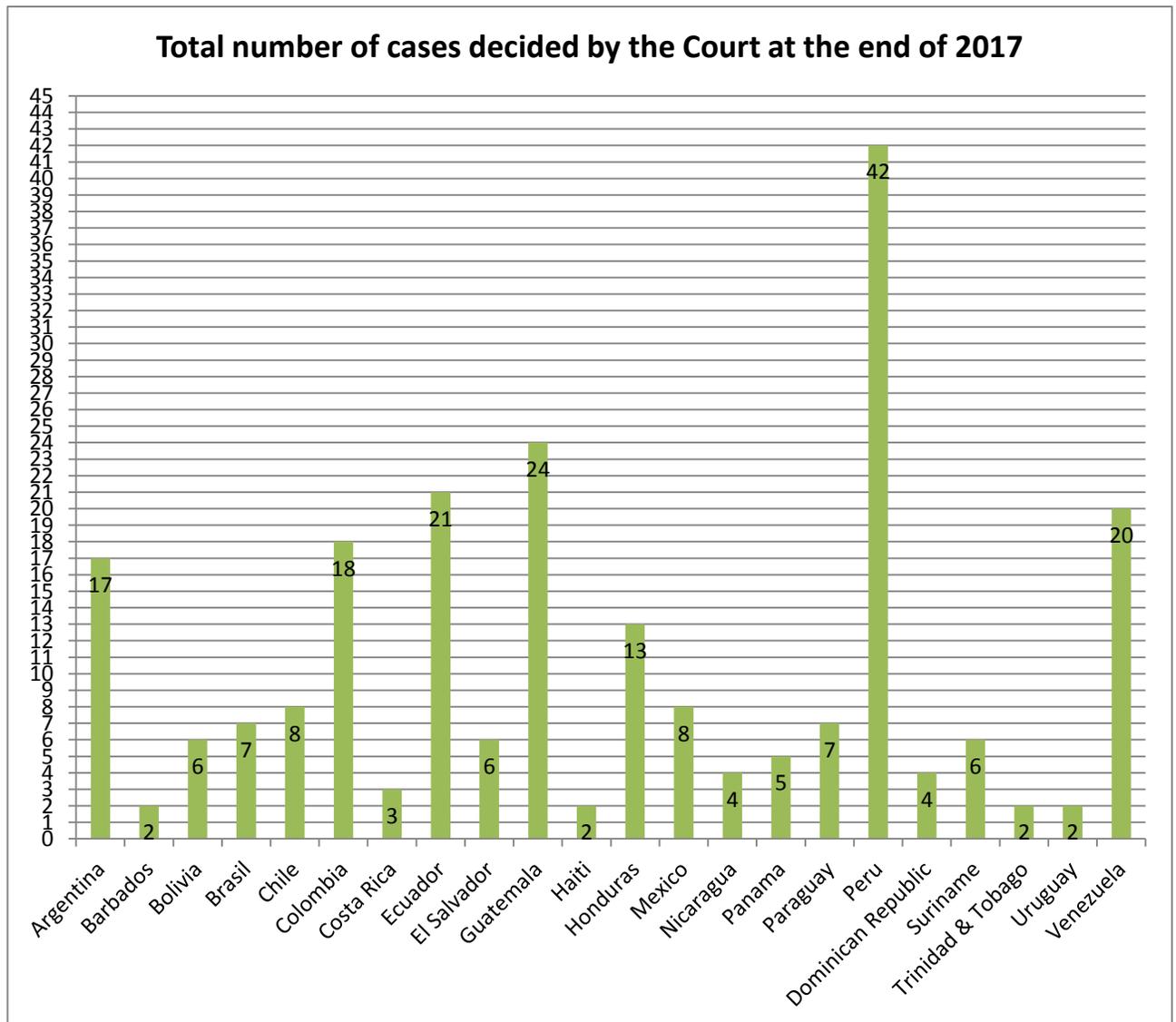


## E. Contentious cases being processed

At December 31, 2017, the following 35 cases were pending a decision by the Court:

| Contentious cases being processed |  |            |            |           |
|-----------------------------------|--|------------|------------|-----------|
| Number                            | Name of the case                         | State      | Date       | submitted |
| 1.                                | Amrhein et al.                           | Costa Rica | 28-11-2014 |           |
| 2.                                | Carvajal Carvajal et al.                 | Colombia   | 22-10-2015 |           |
| 3.                                | Ramírez Escobar et al.                   | Guatemala  | 12-02-2016 |           |
| 4.                                | San Miguel Sosa et al.                   | Venezuela  | 08-03-2016 |           |
| 5.                                | Xucurú Indigenous People and its members | Brazil     | 16-03-2016 |           |
| 6.                                | Isaza Uribe                              | Colombia   | 03-04-2016 |           |
| 7.                                | Villamizar Durán                         | Colombia   | 14-04-2016 |           |
| 8.                                | Vladimir Herzog et al.                   | Brazil     | 22-04-2016 |           |
| 9.                                | Omeara Carrascal et al.                  | Colombia   | 21-05-2016 |           |
| 10.                               | V.R.P and V.P.C                          | Nicaragua  | 25-08-2016 |           |
| 11.                               | Poblete Vilches et al.                   | Chile      | 27-08-2016 |           |
| 12.                               | Selvas Gómez et al.                      | Mexico     | 17-09-2016 |           |
| 13.                               | Coc Max et al. (Xamán Massacre)          | Guatemala  | 21-09-2016 |           |
| 14.                               | López Soto et al.                        | Venezuela  | 02-11-2016 |           |
| 15.                               | Terrones Silva et al.                    | Peru       | 10-11-2016 |           |
| 16.                               | Alvarado Espinoza                        | Mexico     | 10-11-2016 |           |
| 17.                               | Cuscul et al.                            | Guatemala  | 02-12-2016 |           |
| 18.                               | Villaseñor et al.                        | Guatemala  | 15-03-2017 |           |
| 19.                               | Ordenes Guerra et al.                    | Chile      | 17-05-2017 |           |
| 20.                               | Munárriz Escobar et al.                  | Peru       | 09-06-2017 |           |

|     |   |             |            |
|-----|---|-------------|------------|
| 21. | Álvarez Ramos   | Venezuela   | 05-07-2017 |
| 22. | Flores  | Peru        | 13-07-2017 |
| 23. | Colindres   | El Salvador | 08-09-2017 |
| 24. | National Association of Former and Retired Employees of the National Tax Administration Superintendence (ANCEJUB – SUNAT) | Peru        | 15-09-2017 |
| 25. | Villavicencio   | Peru        | 22-09-2017 |
| 26. | Jenkins   | Argentina   | 22-09-2017 |
| 27. | Escaleras Mejía and family  | Honduras    | 22-09-2017 |
| 28. | Perrone and Preckel   | Argentina   | 19-10-2017 |
| 29. | Rico  | Argentina   | 10-11-2017 |
| 30. | Gómez Virula and family   | Guatemala   | 17-11-2017 |
| 31. | Ruiz Fuentes  | Guatemala   | 30-11-2017 |
| 32. | Martínez Coronado   | Guatemala   | 30-11-2017 |
| 33. | Girón and Castillo  | Guatemala   | 30-11-2017 |
| 34. | Díaz Loreto and family members  | Venezuela   | 06-12-2017 |
| 35. | Arrom Suhurt et al.   | Paraguay    | 12-12-2017 |



## V. Monitoring compliance with judgments

### A. Summary of the work of monitoring compliance

Monitoring compliance with the Court's judgments has become one of the most demanding activities of the Court, because each year there is a considerable increase in the number of cases at this stage. Numerous measures of reparation are ordered in each judgment,<sup>58</sup> and the Court monitors, rigorously and continually, prompt and cumulative compliance with every reparation ordered. When assessing compliance with each reparation, the Court makes a thorough examination of the way in which the different components are executed, and how they are implemented with regard to each victim who benefits from the measures, because there are numerous victims in most cases. Currently, 189 cases are at the stage of monitoring compliance,<sup>59</sup> and this entails monitoring 1,008 measures of reparation.

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

In the original judgment the Court requires the State to present an initial report on the implementation of its provisions within one year. It then monitors compliance with the judgment by issuing orders, holding hearings, carrying out 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

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<sup>58</sup> To understand the wide range of measures ordered by the Court, they can be grouped into the following six different forms of reparation: restitution, rehabilitation, satisfaction, guarantees of non-repetition, compensation and reimbursement of costs and expenses, and obligation to investigate, prosecute and punish, as appropriate.

<sup>59</sup> The list of 189 cases at the stage of monitoring compliance includes cases to which, prior to 2016, 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.

task had been divided up among the different working groups in the legal area of the Court's Secretariat, which were also responsible for working on contentious cases pending judgment, following up on provisional measures, and developing advisory opinions

The Court executes this function by monitoring each case individually, and also by the joint monitoring of measures of reparation ordered in judgments in several cases against the same State. The Court employs this strategy when it has ordered the same or similar reparations in the judgments in several cases and when compliance with them faces common factors, challenges or obstacles. The joint hearings and monitoring orders have had a positive impact and repercussions on those involved in implementing the measures. This joint specialized monitoring of compliance mechanism allows the Court to have a greater impact, because it can deal at one and the same time with an issue that is common to several cases involving the same State and approach it 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 between the parties, and those to which they can give most attention and make most progress

In order to provide more information on, greater visibility to, the status of compliance with the reparations ordered in the judgments delivered by the Inter-American Court, since 2015 the information available in both the Court's Annual Report and on its website has gradually been increased. In 2017, in the case of the website, the home page ([www.corteidh.or.cr](http://www.corteidh.or.cr)) includes a link to "Cases at the Monitoring Stage" ([http://www.corteidh.or.cr/cf/jurisprudencia2/casos\\_en\\_etapa\\_de\\_supervision.cfm](http://www.corteidh.or.cr/cf/jurisprudencia2/casos_en_etapa_de_supervision.cfm)), which includes a chronological table of the judgments delivered, organized by State, together with direct links to:

- the judgment establishing reparations,
- the orders issued at the stage of monitoring compliance in each case, and
- the "Reparations" column that contains links to the "Reparations declared completed" (differentiating those partially completed from those totally completed) and "Reparations pending compliance."

This provides the different users of the inter-American system with a simple and flexible tool to consult and know which reparations are being monitored by the Court and those that the States have already completed. Also, the home page ([www.corteidh.or.cr](http://www.corteidh.or.cr)) includes a link to "Cases filed due to full compliance" ([http://www.corteidh.or.cr/cf/jurisprudencia2/casos\\_en\\_etapa\\_de\\_supervision\\_archivados\\_cumplimiento.cfm?lang=es](http://www.corteidh.or.cr/cf/jurisprudencia2/casos_en_etapa_de_supervision_archivados_cumplimiento.cfm?lang=es)), which shows a chronological table of when the judgments were delivered, organized by State, with the respective direct links to the judgment establishing the reparations and the orders issued in each case while monitoring compliance until total completion. At the end

of 2017, twenty-nine (29) cases had been filed because the reparations had been complied with fully.

During 2017, the Inter-American Court held **seven (7) hearings**<sup>60</sup> on monitoring compliance with judgments, **in which it monitored compliance with the judgments in twenty-two (22) cases**, in order to receive updated and detailed information from the States concerned on implementation of the measures of reparation ordered, and to receive the observations of the representatives of the victims and the Inter-American Commission.

Five (5) of the seven (7) hearings were held in the territory of the States whose cases were being monitored, and the other two (2) took place at the seat of the Court in San José, Costa Rica. As described below, the Court holds different types of hearings on monitoring compliance with judgment:

Monitoring hearings on individual cases: the Court held five (5) hearings to monitor compliance with the judgments in five cases. Four (4) of these hearings were private and one (1) public,

Hearings to jointly monitor several cases against the same State, in which the Court monitors compliance with one or several reparations ordered in judgments in several cases against the same State, when the reparations ordered were the same or similar. The Court held two (2) hearings of this type, in which it monitored compliance with seventeen (17) judgments. These hearings were private.

During 2017, the Court issued **twenty-nine (29) orders on monitoring compliance with judgment**, in which it monitored **compliance with the judgments handed down in forty-two (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 is a dispute between the parties regarding the execution and implementation of the reparations, all of this in order to ensure full and effective implementation of its decision. The orders on monitoring compliance of judgment issued by the Court in 2017 had different contents and purposes:

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

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<sup>60</sup> The following hearings were held: (i) Case of López Lone *et al.* v. Honduras; (ii) jointly for the cases of Blake, "White Van" (Paniagua Morales *et al.*), "Street Children" (Villagrán Morales *et al.*), Bámaca Velásquez, Myrna Mack Chang, Maritza Urrutia, Molina Theissen, Plan de Sánchez Massacre, Las Dos Erres Massacre, Río Negro Massacre, Gudiel Álvarez *et al.* ("Diario Militar"), Carpio Nicolle *et al.*, Tiu Tojín and Chitay Nech *et al.* v. Guatemala; (iii) Case of the Las Dos Erres Massacre v. Guatemala; (iv) Case of Fontevecchia and D'Amico v. Argentina; (v) Case of Vélez Loo v. Panama; (vi) jointly for the cases of the Yakye Axa, Sawhoyamaya and Xákmok Kásek Indigenous Communities v. Paraguay, and (vii) Case of the "Juvenile Re-education Institute" v. Paraguay.

- 2) To jointly monitor compliance with one or several equal or similar reparations ordered in the judgments in several cases involving the same State found responsible, including reimbursement of the Victims' Legal Assistance Fund of the Court, and
- 3) To close cases owing to full compliance with the reparations ordered. The Court ordered the closure of four cases.

In addition to monitoring by means of the above-mentioned orders and hearings, during 2017, 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 **159** of the 189<sup>61</sup> cases at the stage of monitoring compliance with judgment.

During 2017, the Court **received more than 280 reports** and attachments from the States in 125 of the 189 cases at the stage of monitoring compliance with judgment. This means that in many of these 125 cases, several reports were received during the year. In addition, over the course of the year, the Court received more than 330 briefs with observations from either the victims or their legal representatives, or from the Inter-American Commission in 133 of the 189 cases at the stage of monitoring compliance with judgment.

By implementing the above-mentioned actions (requesting reports in the judgment, orders, hearings, on-site procedures in the State found responsible, requests for information or observations in notes of the Court's Secretariat, and the respective receipt of reports and observations), the Court **monitored compliance in 100% of the cases** in 2017; in other words, in the 189 cases at the stage of monitoring compliance.

In addition, during 2017 the above-mentioned mechanism of **joint monitoring** continued with regard to the following measures of reparation:

- I. The obligation to investigate, prosecute and punish, as appropriate, those responsible for the gross human rights violations in 14 cases against Guatemala;
- II. Measures to identify, transfer and grant title to lands of three indigenous communities ordered in 3 cases against Paraguay;
- III. The provision of medical and psychological treatment to the victims in 9 cases against Colombia;
- IV. The adaptation of domestic law to international standards and those of the Convention concerning the guarantee of an ordinary judge in relation to the military criminal jurisdiction, and
- V. The adaptation of domestic law concerning protection of the right to life in the context of the obligatory imposition of the death penalty for the crime of murder in two cases against Barbados, and

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<sup>61</sup> The list of 189 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.

- VI. Guarantees of non-repetition in 6 cases against Honduras concerning: (i) prison conditions, training for prison officials, and registration of detainees; (ii) protection of human rights defenders, in particular environmentalists, and (iii) obligation to investigate, prosecute and punish, as appropriate, the human rights violations that had occurred in these cases.

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## B. Hearings on monitoring compliance with judgment held in 2017

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In 2017, the Inter-American Court held seven (7) **hearings** on monitoring compliance with judgment **during which it monitored compliance with judgment in 22 cases**. Of these, six hearings were private and one public. In this regard, it should be highlighted that the Court held hearings on monitoring compliance with judgments away from its seat in Guatemala, Panama and Paraguay.

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

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#### Case of López Lone et al. v. Honduras

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On February 10, 2017, during the 117th Regular Session, a private hearing was held to monitor compliance with the reparation concerning the reinstatement of the three victims, two judges and a justice, in similar posts to those they occupied in the Judiciary at the time of the facts, as well as payment of the social benefits during the time they were separated from this institution, or the compensation established in the judgment if there was a justified reason that they could not be reinstated. At that time, the Court heard the respective observations of the victims' representatives and opinion of the Inter-American Commission.



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### Case of *Fontev ecchia and D'Amico v. Argentina*

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On August 21, 2017, a public hearing was held at which the Court received updated information from the Argentine State on compliance with two measures of reparation relating to: (i) nullifying the civil sentence imposed on Jorge Fontev ecchia and Héctor D'Amico as well as all its consequences, including: (a) attribution of civil responsibility to the said victims; (b) the sentence to pay compensation, interest, and costs and court fees, to be reimbursed with interest on the updated amounts in accordance with domestic law, and (c) any other consequence that the domestic decisions attributing responsibility to the victims may have or have had, and to (ii) payment of the amounts established in the judgment as reimbursement of costs and expenses incurred before the inter-American jurisdiction. The Court also heard the respective observations of the victims' representatives and opinion of the Inter-American Commission.



## 2. Hearings on monitoring compliance with judgment held away from the seat of the Court, in the territory of the States found responsible

In 2015, the Court commenced the constructive initiative of holding hearings in the territory of the States found responsible and, to this end, obtained cooperation from Panama and Honduras. In 2016, the Court held two monitoring hearing in Mexico during its 55th Special Session in Mexico City, with substantial collaboration from this State.

In 2017, the Court was able to continue this initiative and held five hearings away from its seat in the territory of the States of Guatemala, Panama and Paraguay, owing to significant collaboration from all three. In addition, in the case of the hearings in Guatemala and Paraguay, the Court also received support through the international cooperation of the Swiss Embassy in Guatemala and the Heinrich Böll Stiftung Foundation, respectively.

This type of hearing enables greater participation by victims and the different state officials and authorities directly responsible for the execution of the various reparations ordered in the judgments.

The hearings were held: (i) in Guatemala, during the 57th Special Session; (ii) in Panama, during the 58th Special Session, y (iii) in Paraguay during the visit made to that country by a delegation from the Court and its Secretariat to monitor compliance on site from November 27 to 30, 2017.

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### Joint monitoring of compliance with the obligation to investigate in 14 cases against Guatemala

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This private hearing took place on March 24, 2017, during the 57th Special Session, held in Guatemala. Information was received on the measure concerning the obligation to investigate, prosecute and punish, as appropriate, those responsible for the human rights violations verified in the judgments in the cases: Blake, "White Van" (Paniagua Morales *et al.*), "Street Children" (Villagrán Morales *et al.*), Bámaca Velásquez, Myrna Mack Chang, Maritza Urrutia, Molina Theissen, Plan de Sánchez Massacres, Las Dos Erres Massacre, Río Negro Massacre, Gudiel Álvarez *et al.* ("Diario Militar"), Carpio Nicolle *et al.*, Tiu Tojín, and Chitay Nech *et al.*, all v. Guatemala. Most of the facts that must be investigated in these cases occurred or began to be executed between 1960 and 1996 during the internal armed conflict in Guatemala. The Court also heard the corresponding observations of the victims' representatives and opinion of the Inter-American Commission. During the hearing the Court underlined the role of the victims and the work of human rights defenders in the fight against impunity in Guatemala.

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### Case of Las Dos Erres Massacre v. Guatemala

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On March 24, 2017, this private hearing on monitoring compliance was held during the 57th Special Session held in Guatemala. Information was received on compliance with three of the measures of reparation ordered in the judgment in this case: (i) exhumation and identification of



the remains of those who died in the massacre and their return to the next of kin; (ii) erection of a monument at the site of the events, to commemorate those who died in the massacre, with a plaque mentioning the massacre and the names of those who died, and (iii) creation of a website to search for children who were taken and illegally retained during the internal conflict. The Court also heard the corresponding observations of the victims'

representatives and opinion of the Inter-American Commission.

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### Case of Vélez Loor v. Panama

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On October 20, 2017, a private hearing was held in this case during the 58th Special Session held in Panama. Information was received on four pending measures of reparation: (i) the obligation to investigate, prosecute and punish, as appropriate, the alleged acts of torture reported by Mr. Vélez Loor when he was detained; (ii) the need to have facilities with sufficient capacity to accommodate those whose detention owing to migratory issues is necessary and proportionate in the specific case, and that offer material conditions and a regime suitable for migrants, with duly qualified personnel; (iii) implementation of a training program for personnel of the National Immigration and Naturalization Service and for other officials who, because of their work, have to deal with migrants, on international standards relating to the human rights of migrants, guarantees of due process, and the right to consular assistance, and (iv) implementation of training programs on the obligation to open investigations *ex officio* whenever there is report or justified reason to believe that acts of torture have been committed under their jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police, and personnel from the health sector working with this type of case. The Court also heard the corresponding observations of the victims' representatives and opinion of the Inter-American Commission. Furthermore, in application of Article 69(2) of the Court's Rules of Procedure (*infra*), the National Director of International Relations of the Office of the Panamanian Ombudsman took part in the hearing and provided a report on the guarantee of non-repetition ordered in this case concerning facilities to accommodate those detained for migratory issues.



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### Joint monitoring of compliance of the judgments in the cases of the *Yakye Axa, Sawhoyamaya and Xákmok Kásek Indigenous Communities v. Paraguay*

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This private hearing was held on November 30, 2017, during the visit to Paraguay by a delegation of the Inter-American Court and its Secretariat to monitor compliance with judgments. The hearing was held after the delegation had visited the territories of the three indigenous communities to verify, on site and directly, the level of compliance with the reparations ordered in the judgments in these cases (*infra*). Supplementary to the information received during these visits, during the hearing the State gave specific undertakings in relation to compliance with the measures of reparation, and the victims' representatives indicated their corresponding requests and observations. The parties referred to the points on which they considered progress had been made and those that remained pending, and focused on working together to move forward promptly towards compliance.



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## Case of the “Juvenile Re-education Institute” v. Paraguay

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On November 30, 2017, a private hearing was held in this case during the visit to Paraguay by a delegation of the Inter-American Court and its Secretariat to monitor compliance with judgments. During the hearing the following reparations, among others, were monitored: (i) to hold, in consultation with civil society, a public act to acknowledge international responsibility that included the elaboration of an official short-, medium- and long-term policy concerning children in conflict with the law that conformed to Paraguay’s international commitments; (ii) to provide psychological treatment to all those who were inmates of the Institute between August 14, 1996, and July 25, 2001; medical and/or psychological treatment for former inmates injured in the fires, and psychological treatment for the family members of the inmates who died or were injured, and (iii) to provide vocational assistance and a special education program for the said former inmates of the Institute. One of the victims and the representatives of the victims in the international proceedings (CEJIL) took part in the hearing, and also the Tekojojá Foundation, which has represented some of the victims at the domestic level in their attempts to obtain compliance with the reparations ordered by the Court was authorized to participate. In addition, in application of Article 69(2) of the Court’s Rules of Procedure (*infra*), a member of the National Mechanism for the Prevention of Torture took part in the hearing, proving a report on the guarantee of non-repetition ordered in this case concerning the elaboration of a public policy on children in conflict with the law.

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## C. *In Situ* procedures in the context of monitoring compliance with judgments against Guatemala and Paraguay

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In 2017, delegations from the Court and its Secretariat were able to conduct two judicial procedures to verify, *in situ* and directly, the level of compliance with the reparations ordered in five cases: two of them against Guatemala and three against Paraguay. The first time that a delegation from the Court carried out an on-site procedure in the context of monitoring compliance with judgment was in 2015.<sup>62</sup>

The advantage of this type of on-site procedure is that it enables the Court to verify directly the status of implementation of the measures. It also allows greater participation by the victims, their representatives, and the different state officials and authorities directly responsible for the

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<sup>62</sup> This visit took place in Panama, in the territory of the Ipetí and Piriati Emberá Communities of Bayano in the context of the proceeding on monitoring of compliance with judgment in the Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano.

execution of the various reparations ordered in the judgments, and improves the willingness to make undertakings aimed at prompt compliance with the reparations. In addition, this type of visit permits direct and immediate communication between the victims and senior state officials so that the latter can commit, then and there, to taking specific actions to advance compliance with the measures, and the victims' opinions can be heard on the progress and shortcomings they have identified.

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### Cases of the Plan de Sánchez and Río Negro Massacres v. Guatemala

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On March 27, 2017, the inhabitants of both Colonia Pacux and the village of Plan de Sánchez, in the municipality of Rabinal, department of Baja Verapaz, received the visit of a delegation from the Inter-American Court and its Secretariat.<sup>63</sup> The visit took place as part of the judicial procedures to verify compliance with the judgments in [the Cases of the Río Negro Massacres and the Plan de Sánchez Massacres](#), respectively.

Also present were victims and their representatives (from ADIVIMA and CALDH), as well as senior state officials representing ministries and public institutions responsible for implementing the measures.



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<sup>63</sup> Consisting of its President, Judge Roberto F. Caldas, Judge Humberto Antonio Sierra Porto, the Secretary Pablo Saavedra Alessandri, the Legal Counsel Alexei Julio Estrada, and the lawyers Gabriela Pacheco Arias, Edward Pérez and Bruno Rodríguez Reveggino.

The delegation spoke to survivors of the massacre, and visited the health centers and educational establishments. Also, among other matters, it observed the state of trails and roads and verified the status of compliance with the measure requiring the supply of potable water. At each site visited, the delegation received comments and information on these measures, as well as on the implementation of a food security program, the guaranteed supply of electricity at affordable prices, and the provision of satisfactory housing.

The information obtain was evaluated in the respective [Orders of May 25, 2017](#).

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### Cases of the Yakye Axa, Sawhoyamaxa and Xákmok Kásek Indigenous Communities v. Paraguay

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From November 27 to 29, 2017, the members of the Yakye Axa, Sawhoyamaxa and Xákmok Kásek indigenous communities, located in the department of President Hayes, in the Paraguayan Chaco, received the visit of a delegation presided by Judge Patricio Pazmiño Freire.<sup>64</sup> The purpose of the visits was to conduct judicial procedures to verify, on-site and directly, the level of compliance with the reparations ordered in the [Judgments in the cases of the Yakye Axa, Sawhoyamaxa and Xákmok Kásek Indigenous Communities](#) delivered in 2005, 2006 and 2010, respectively.

The Court's delegation noted that the Yakye Axa community continued to live in a confined space at the side of the highway, in front of a section that was unpaved, rather than on the lands that should have been handed over to them. However, the Sawhoyamaxa and Xákmok Kásek communities were living on their traditional lands, although they had not yet been granted title to them.



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<sup>64</sup> The lawyers Gabriela Pacheco Arias, Edward Pérez and Lucía Aguirre Garabito from the Court's Secretariat were also part of the delegation.

In each place visited the delegation was received by the leaders and other members of the communities. Also present were the victims' legal representatives (from Tierraviva and CEJIL), as well as an extensive delegation from the State, which included senior officials representing different ministries and public institutions involved in implementation of the reparations.

The measures monitored included those concerning: (1) the acquisition, delivery and titling of the traditional lands to the Sawhoyamaxa and Xákmok Kásek indigenous communities, basically as regards: (a) measurement and titling of 7,701 hectares acquired for the Sawhoyamaxa community; the current status of the restitution of the missing 2,999 hectares and payment for the delay, and (b) the official physical delivery of the traditional lands to the members of the Xákmok Kásek community, particularly the situation of the actions filed in relation to payment to the companies expropriated; (2) the acquisition, delivery and titling of alternative lands to the Yakye Axa community; the construction of the access road to these lands, the provisional completion date, and the transfer of the community; (3) the provision of the basic goods and services required for the survival of the members of the communities while their lands were being restituted, and (4) the creation and implementation of community development funds on the lands that correspond to these indigenous communities. In this regard, US\$950,000 must be contributed for the Yakye Axa community, US\$1,000,000 for the Sawhoyamaxa community, and US\$700,000 for the Xákmok Kásek community.

At each site, the delegation listened to the leaders and members of the communities, as well as to their legal representatives and the state authorities, and visited different places in the communities to observe the conditions. In addition, during the visits, the Court's delegation asked any questions they found necessary.

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## D. Orders on monitoring compliance with judgment issued in 2017

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

The Court issued 29 orders on monitoring compliance with judgment while monitoring 42 cases. These orders are described below, in chronological order, classified by their content and purpose.

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

| Individual monitoring of cases<br>Compliance with all or several reparations ordered in the respective judgment is evaluated                       |                      |
|--|----------------------|
| Name of the case   | Link                 |
| 1. Case of the Miguel Castro Castro Prison v. Peru. Order of February 9, 2017.   | <a href="#">Here</a> |
| 2. Case of Rochac Hernández <i>et al.</i> v. El Salvador. Order of February 9, 2017.   | <a href="#">Here</a> |
| 3. Case of Mémoli v. Argentina. Order of February 10, 2017.  | <a href="#">Here</a> |
| 4. Case of Atala Riffo and daughters v. Chile. Order of February 10, 2017.   | <a href="#">Here</a> |
| 5. Case of Rodríguez Vera <i>et al.</i> (Disappeared from the Palace of Justice) v. Colombia. Order of February 10, 2017.                          | <a href="#">Here</a> |
| 6. Case of Goiburú <i>et al.</i> v. Paraguay. Order of May 23, 2017.   | <a href="#">Here</a> |
| 7. Case of Velásquez Paiz <i>et al.</i> v. Guatemala. Order of May 23, 2017.   | <a href="#">Here</a> |
| 8. Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their members v. Panama. Order of May 23, 2017. | <a href="#">Here</a> |
| 9. Case of Pacheco Teruel <i>et al.</i> v. Honduras. Order of May 23, 2017.  | <a href="#">Here</a> |
| 10. Case of the Plan de Sánchez Massacres v. Guatemala. Order of May 25, 2017.   | <a href="#">Here</a> |
| 11. Case of the Río Negro Massacres v. Guatemala. Order of May 25, 2017.   | <a href="#">Here</a> |
| 12. Case of López Lone <i>et al.</i> v. Honduras. Order of May 25, 2017.   | <a href="#">Here</a> |
| 13. Case of Véliz Franco <i>et al.</i> v. Guatemala. Order of August 29, 2017.   | <a href="#">Here</a> |
| 14. Case of the Human Rights Defender <i>et al.</i> v. Guatemala. Order of August 29, 2017.  | <a href="#">Here</a> |
| 15. Case of Garrido and Baigorria v. Argentina. Order of August 30, 2017.  | <a href="#">Here</a> |
| 16. Case of Maldonado Vargas <i>et al.</i> v. Chile. Order of August 30, 2017.   | <a href="#">Here</a> |
| 17. Case of Vélez Restrepo and family members v. Colombia. Order of August   | <a href="#">Here</a> |

30, 2017.

18. Case of Maldonado Ordóñez v. Guatemala. Order of August 30, 2017.
19. Case of the Massacres of El Mozote and neighboring places v. El Salvador. Order of August 31, 2017.
20. Case of Fontevecchia and D'Amico v. Argentina. Order of October 18, 2017.
21. Case of Cantos v. Argentina. Order of November 14, 2017.
22. Case of I.V. v. Bolivia. Order of November 14, 2017.
23. Case of García Ibarra *et al.* v. Ecuador. Order of November 14, 2017.
24. Case of Luna López v. Honduras. Order of November 14, 2017.
25. Case of Heliodoro Portugal v. Panama. Order of November 14, 2017.

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[Here](#)

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

| Joint monitoring of cases<br>Compliance with one or several reparations ordered in more than one judgment with regard to the same State  |                      |
|--|----------------------|
| Name of the case   | Link                 |
| 1. Case of Kawas Fernández and Case of Luna López v. Honduras. Order of August 30, 2017.   | <a href="#">Here</a> |
| 2. Cases of the Yakye Axa, Sawhoyamaya and Xákmok Kásek Indigenous Communities v. Paraguay. Order of August 30, 2017.  | <a href="#">Here</a> |
| 3. Case of Boyce <i>et al.</i> and case of Dacosta Cadogan v. Barbados. Reimbursement of the Victims' Legal Assistance Fund. Order of November 14, 2017.   | <a href="#">Here</a> |
| 4. Cases of Osorio Rivera and family members, J., Miguel Castro Castro Prison, Tarazona Arrieta <i>et al.</i> , Espinoza Gonzáles, Cruz Sánchez <i>et al.</i> , Canales Huapaya <i>et al.</i> , Campesino Community of Santa Bárbara, Quispialaya Vilcapoma and Tenorio Roca <i>et al.</i> v. Peru. Reimbursement of the Victims' Legal Assistance Fund. Order of November 14, 2017. | <a href="#">Here</a> |

### 3. Cases closed due to compliance with judgment

During 2017, closure of the case was declared due to full compliance with the judgment in four cases: two corresponding to Argentina, one to Guatemala and one to Ecuador.

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#### Case of *Mémoli v. Argentina*

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On February 10, 2017, the Court issued an order in which it decided to consider concluded and to close this case because Argentina had complied with all the reparations ordered in the judgment delivered on August 22, 2013. Argentina had implemented the following reparations: (i) cancel immediately the precautionary measure of a general restraint on property belonging to Carlos and Pablo Mémoli; (ii) take the necessary measures to decide, as rapidly as possible, the civil action filed against Carlos and Pablo Mémoli; (iii) publish and disseminate the judgment and the official summary; (iv) pay the victims the amounts established for non-pecuniary damage, and (v) reimburse Pablo Mémoli the amount established for costs and expenses.

The Order of February 10, 2017, can be found [here](#).

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#### Case of *Maldonado Ordóñez v. Guatemala*

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On August 30, 2017, the Court issued an order in which it decided to consider concluded and to close this case because Guatemala had complied with all the measures of reparation ordered in the judgment delivered on May 3, 2016. Guatemala had implemented the following reparations: (i) publish and disseminate the judgment; (ii) pay the compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses; (iii) eliminate Mrs. Maldonado's dismissal proceedings from her "work record" or any other type of record, and (iv) define or regulate the judicial remedy for the review of disciplinary measures or sanctions of the Human Rights Ombudsperson.

The Order of August 30, 2017, can be found [here](#).

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#### Case of *García Ibarra v. Ecuador*

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On November 14, 2017, the Court issued an order in which it decided to consider concluded and to close this case because Ecuador had complied with all the measures of reparation ordered in the judgment delivered on November 17, 2015. Ecuador had implemented the following reparations: (i) publish and disseminate the judgment; (ii) pay the victims the compensation for pecuniary and non-pecuniary damage, and (iii) reimburse the victims' representatives the costs and expenses.

The Order of November 14, 2017, can be found [here](#).

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### Case of Cantos v. Argentina

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On November 14, 2017, the Court issued an order in which it decided to consider concluded and to close this case in which the judgment was delivered on November 28, 2002. The Court took the decision to cease monitoring this case when it noted that (a) the only two operative paragraphs that were pending referred to orders of a pecuniary nature that corresponded to payment of a levy that benefited third parties who were not victims in this case, and (b) taking into account that, for more than eight years, the victim in this case, his legal representative, and the Inter-American Commission had shown no interest in monitoring compliance with these two operative paragraphs.

The Order of November 14, 2017, can be found [here](#).

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

Starting in 2015, the Court has used the authority established in Article 69(2)<sup>65</sup> of its Rules of Procedure to request relevant information on the implementation of reparations from sources that are not parties to a case. This has allowed it to obtain direct information from specific State organs and institutions that have a competence or function that is relevant for implementation of the reparation or to require its implementation at the domestic level.<sup>66</sup> This information differs

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<sup>65</sup>This article stipulates that: "The Court may require from other sources of information relevant data regarding the case in order to evaluate compliance therewith. To that end, the Court may also request the expert opinions or reports that it considers appropriate."

<sup>66</sup> The following are among the most significant requests made in previous years: (1) in the case of *Artavia Murillo et al. ("In vitro fertilization") v. Costa Rica*, the Costa Rican Ombudsperson was authorized to take part in the September 2015 public hearing to monitor compliance in relation to compliance with the guarantees of non-repetition ordered in this case (with regard to annulling the prohibition to perform IVF, regulating the aspects required in order to implement IVF, and making IVF available under the national health service). The Court assessed that information in its order of February 26, 2016; (2) in the joint monitoring of the obligation to investigate in 12 Guatemalan cases, the Court requested information from the Prosecutor General of the Guatemalan Public Prosecution Service, and this was assessed in the order issued by the Court in 2015, in which, among other matters, structural obstacles to the investigation of these cases were identified; (3) in the case of the *Miguel Castro Castro Prison v. Peru*, in an April 2015 order, the Court requested information from the Special Court for Execution of Supranational Judgments of the Superior Court of Justice of Lima on the reparations relating to the payment of compensation. In answer to this request the judge of that court forwarded a report to the Court in June 2015, which was evaluated in an order on monitoring compliance dated February 9, 2017; (4) in the order it issued on September 1, 2016, in the case of *Palamara Iribarne v. Chile*, the Court assessed information provided by the Chilean National Human Rights Institute on compliance with the guarantees of non-repetition in relation to the adaptation of domestic law to international standards with regard to military criminal justice, and (5) in the order issued on November 22, 2016, in the case of *Tibi v. Ecuador*, the Court considered it useful to request a report from a specific department of the Office of the Prosecutor General of the State of Ecuador responsible for the preliminary investigation opened in 2005 into the violations perpetrated against the victim in this case.

from that provided by the State, as a party to the proceedings, at the stage of monitoring compliance.

In 2017, the Court applied this provisions in the following cases:

In the joint monitoring of the obligation to investigate gross human rights violations perpetrated during the armed conflict in 14 Guatemalan cases, the Court requested the **Prosecutor General of the Guatemalan Public Prosecution Service**, or the person he designated to represent him, to provide a report during the March 2017 private hearing on monitoring compliance in these cases, and also to refer to the common structural obstacles identified in the Court's order of November 24, 2015, as well as to other possible difficulties or problems that could have an impact on satisfactory compliance with this obligation.

In the case of *Velez Llor v. Panama*, the Court required the **Panamanian Ombudsman** or the person he designated to represent him, to provide a report, during the October 2017 private hearing on monitoring compliance, on the guarantee of non-repetition consisting in the adoption of the measures needed to provide facilities with sufficient capacity to accommodate those whose detention based on migratory issues was necessary and proportionate in the specific case, and that were specifically adapted to this purpose, and offered the material conditions and a regime suitable for migrants, staffed by duly qualified and trained civil personnel.

In the case of the "*Juvenile Re-education Institute*" v. *Paraguay*, the Court required the President of **National Mechanism for Prevention of Torture of Paraguay** or the person she designated to represent her, to provide a report during the November 2017 private hearing on monitoring compliance, in relation to the guarantee of non-repetition relating to the elaboration of a of an official short-, medium- and long-term policy concerning children in conflict with the law that conformed to Paraguay's international commitments.

## 5. Informal meetings held with State agents or delegations

During 2017 positive results were achieved from holding meetings with States to provide them with information or to discuss the status of cases at the stage of monitoring compliance with judgment. Such meetings were held with the authorities of Venezuela, Panama, Argentina, Ecuador and Paraguay.<sup>67</sup> This type of meeting is informal and does not have the nature of a monitoring hearing; however, it does have a positive impact on improving communication on matters such as the different reparations that States are called on to implement, deadlines for the submission of reports, and observations presented by the victims' representatives and the Commission.

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<sup>67</sup> In 2015, a meeting of this type was held with regard to the cases involving Panama and, in 2016, this type of meeting was held with regard to cases involving Guatemala and Argentina.

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

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. This is particularly important in the case of reparations that constitute guarantees of non-repetition. Such reparations are more complex to implement and benefit both the specific 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 and organs, as well as institutions specialized in the proposal, planning or implementation of such measures, is relevant.

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

In order to develop closer ties with this type of institution, in 2017 the Inter-American Court signed an agreement with the Panamanian Ombudsman, which joins those signed with other similar institutions in previous years.<sup>68</sup>

Domestic courts, and particularly constitutional courts, can also play an essential role by requiring, within their area of competence, compliance with certain reparations ordered by the

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<sup>68</sup> In 2016, the Inter-American Court signed an agreement with the Costa Rican Ombudsperson, and also made arrangements to implement the agreement signed with the Ibero-American Federation of Ombudsmen (FIO). The agreement with the FIO makes significant progress in this area by directly addressing the issue of compliance with the Court's judgments. It includes the commitment to establish a "dialogue and identify possible activities between FIO members and the Inter-American Court with regard to the role of the ombudsman in relation to compliance with the judgments of the Inter-American Court, [...] paying special attention to compliance with the reparations that entail changes in the legislation, practices or structural situation that resulted in the violation of human rights." In previous years, the Court has also signed agreements with: (i) the National Human Rights Commission of Honduras, which even contains a clause indicating that the Commission "may collaborate in the task of monitoring compliance with the judgments of the Inter-American Court"; (ii) the Peruvian Ombudsman; (iii) the Human Rights Commission of the Federal District of Mexico; (iv) the National Human Rights Commission of Mexico; (v) the State Human Rights Commission of Nuevo León, Mexico; (vi) the Colombian Ombudsman; (vii) the Ombudsman of the Plurinational State of Bolivia, and (viii) the Ombudsman of the Republic of Panama.

Inter-American Court. In 2017, the Court recognized dos examples of this in relation to cases involving Chile and El Salvador (*infra*).

## 7. Compliance with guarantees of non-repetition

During 2017, the Court evaluated compliance (total or partial)<sup>69</sup> with different measures of reparation that constitute guarantees of non-repetition, and it finds it appropriate to underline this in order to publicize the progress made by the States and their best practices. Owing to the type of structural change entailed by the implementation of these measures, they benefit both the victims of a case and society as a whole. Complying with such measures requires actions that involve legislative reforms, changes in jurisprudence, the design and implementation of public policies, changes in administrative practices, and other extremely complex actions.

Such measures were complied with (totally or partially) by the States of Chile, El Salvador, Honduras, Guatemala, Panama and Paraguay.

### CHILE: Mechanism to review and annul judgments handed down by courts martial during the Chilean military dictatorship<sup>70</sup>

In the Judgment in the Case of Maldonado Vargas et al. v. Chile, the Court ordered as reparations that the State should both make “available to the victims in this case an effective and prompt mechanism to review and annul the sentences” handed down by the courts martial against the 12 victims in the case, and also make “this mechanism available to the other persons who were sentenced by the courts martial during the Chilean military dictatorship” “in proceedings that may have taken into account evidence and/or confessions obtained by torture.”

In the [2017 Order](#), the Court appreciated the fact that, in a judgment of October 3, 2016, the Second Chamber of the Supreme Court of Chile<sup>71</sup> had decided favorably an appeal for review filed in May that year by the judicial prosecutor of the Supreme Court of Chile at the request of the President of the State Defense Council. The said Chamber of the Supreme Court ordered that “the judgments handed down by the court martial in case No. 1-73 shall be annulled with regard to all those convicted in them, and not only for those who had recourse to the [Inter-American] Court [...]” Eighty-four people had been convicted in that case, including the 12 victims in this case. The Chamber also declared that they “are acquitted, because their complete innocence [...] of the charges brought against them in that proceeding has been satisfactorily proved.”

In addition, to its decision benefiting the victims in this case and the others who were convicted

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<sup>69</sup> The orders in which the Court evaluated compliance with these reparations were issued during 2017. The actions taken by the States may have been taken this year or in previous years.

<sup>70</sup> Case of Maldonado Vargas et al. v. Chile. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017.

<sup>71</sup> Cf. Judgment delivered by the Second Chamber of the Supreme Court of Chile on October 3, 2016 (annex 14 to the State’s report of October 2016).

in the same proceeding, the Second Chamber of the Supreme Court established some important points that have positive repercussions on compliance with the aspect of the reparation ordered as a guarantee of non-repetition.

The Court appreciated that, by its October 2016 decision, the Second Chamber of the Supreme Court had been able to provide the appeal for review with the capacity to guarantee a rapid and effective mechanism to review the sentences handed down by the courts martial, in violation of the guarantees of due process, during the military dictatorship. It also underlined the weight that the Second Chamber of the Supreme Court of Chile gave to the judgment of the Inter-American Court in this case “as corroborating evidence to support the grounds for review that were filed” and as a standard of interpretation to ensure compliance with the reparation ordered.

When considering compliance with the guarantee of non-repetition, the Inter-American Court evaluated that the said case law of the Supreme Court of Chile, established with such clarity, provided sufficient legal certainty that the said court had the competence to hear appeals for review of sentences handed down by courts martial and that, in future, under the grounds for review established in article 657(4) of the Code of Criminal Procedure, it could examine appeals filed by other individuals who had also been sentenced by courts martial and who wished to have their sentences reviewed. In addition, the Supreme Court of Chile recognized the essential role of domestic courts, including the highest courts, in compliance with or implementation of the Inter-American Court’s judgments.

### **EL SALVADOR: Ensure that the General Amnesty Act for Consolidation of Peace does not obstruct investigations<sup>72</sup>**

In the Judgment in the *Case of the Massacres of El Mozote and neighboring places*, the Court ordered El Salvador to ensure that the 1993 General Amnesty Act for Consolidation of Peace “never again obstructs the investigation of the facts that are the subject of this case, or the identification, prosecution and eventual punishment of those responsible for these facts and other gross violations of human rights similar to those that occurred during the armed conflict in El Salvador.” The Court considered that this law did not meet the standards of international human rights law and international humanitarian law, because “it extended the possibility of impeding the criminal investigation and determination of responsibilities to those persons who might have taken part as masterminds, perpetrators or accomplices in the perpetration of gross human rights violations and grave violations of international humanitarian law during the internal armed conflict, including those exemplary cases identified by the Truth Commission.”

In the [2017 Order](#), the Court declared that this measure had been complied with because, in a judgment of July 13, 2016, the Constitutional Chamber had declared the unconstitutionality of the General Amnesty Act for Consolidation of Peace. The Chamber’s line of reasoning assumed as its

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<sup>72</sup> Case of the Massacres of El Mozote and neighboring places v. El Salvador. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 31, 2017, consideranda 11 to 18.

own the criteria of the Inter-American Court regarding the prohibition of amnesty in the face of gross human rights violations.

The Court also appreciated the re-opening of the criminal proceedings and the overruling of the acquittal previously ordered and considered particularly important that, having made significant legal progress by eliminating the obstacle that kept unpunished the gross violations of human rights committed during the armed conflict in El Salvador, including those of the massacres of El Mozote and neighboring places, progress should be made with due diligence in the investigation and prosecution of the facts identified in the Judgment.

### **HONDURAS: Public policy for the protection of human rights defenders, in particular environmentalists<sup>73</sup>**

In the Judgment in the Case of *Luna López*, the Court ordered Honduras “to implement, within a reasonable time, an effective public policy for the protection of human rights defenders, in particular environmentalists.”

On May 14, 2015, Honduras approved the “Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Agents of Justice,” and on August 16, 2016, it approved the “General Regulations for the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Agents of Justice,” published in Gazette No. 34,117 of August 20, 2016.

In the [2017 Order](#), the Court recognized that the State had taken steps to design a public policy for the protection of human rights defenders, in particular environmentalists, and that the effective implementation of this policy remained pending. The Court considered that, although the above provisions establish the necessary institutional framework to implement the public policy for the protection of human rights defenders, the State must continue and conclude implementation of the content of these provisions, so that the measures of prevention, promotion and protection that they establish can be executed and the danger faced by human rights defenders in Honduras can be substantially improved. It is essential that these provisions are implemented effectively for the Court to consider that this measure has been complied with.

### **GUATEMALA: Define or regulate the appropriate judicial remedy to review disciplinary measures or sanctions of the Ombudsman<sup>74</sup>**

In the Judgment, the Court ordered Guatemala “to define or regulate, clearly, by legislative or other measures, the appropriate judicial remedy, proceeding, and judicial competence for the

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<sup>73</sup> Case of *Kawas Fernández* and Case of *Luna López v. Honduras*. Monitoring compliance with judgments. Order of the Inter-American Court of Human Rights of August 30, 2017, consideranda 25 to 37.

<sup>74</sup> Case of *Maldonado Ordóñez v. Guatemala*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of August 30, 2017, consideranda 18 to 29.

essential jurisdictional review of any disciplinary measure or sanction of a disciplinary and administrative nature of the Ombudsman.” In this case, the Court determined that Guatemala had violated the rights to judicial guarantees, judicial protection and the principle of legality, as a result of the contradiction that existed in Guatemalan law between the Labor Code and the 1991 Personnel Regulations of the Ombudsman’s Office.

In the [2017 Order](#), the Court appreciated the fact that that the promulgation of the new Human Resources Management Regulations of the Ombudsman’s Office complied fully with this measure of reparation, because the contradiction that existed between the Labor Code and the former Personnel Regulations of the Ombudsman’s Office had ceased. It is now clear that the judicial review of disciplinary measures or sanctions ordered by the Ombudsman falls within the competence of “the corresponding labor courts” and that the aspects relating to competence *ratione materiae*, judicial remedy, and proceedings is governed by the provisions of the Guatemalan Labor Code.

### **PANAMA: Amendment of the definition of the crime of enforced disappearance<sup>75</sup>**

In the Judgment in the *Case of Heliodoro Portugal*, the Court ordered Panama to amend, within a reasonable time, its domestic law in order to define the crime of enforced disappearance so that it complied with the commitments assumed under the Inter-American Convention on Forced Disappearance of Persons. In its consistent case law, the Court has indicated that the enforced disappearance of persons includes the following concurrent and constituent elements: “(a) the deprivation of liberty; (b) the direct intervention of state agents or their acquiescence, and (c) the refusal to acknowledge the detention and to reveal the fate or the whereabouts of the person concerned.”

Panama complied with this reparation by amending article 152 of the Criminal Code, which defines the crime of enforced disappearance. The Court confirmed that the amendment of the definition of enforced disappearance contained all the elements included in the Inter-American Convention on Forced Disappearance of Persons and ordered in the Judgment.

### **PARAGUAY: Amendment of the definition of the crimes of torture and enforced disappearance<sup>76</sup>**

In the Judgment in the Case of Goiburú et al., the Court ordered Paraguay “to amend, within a reasonable time, the definition of the crimes of torture and enforced disappearance of persons

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<sup>75</sup> Case of Heliodoro Portugal v. Panama. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of November 14, 2017, Consideranda 23 to 33.

<sup>76</sup> Case of Goiburú et al. v. Paraguay. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of May 23, 2017.

contained in articles 236 and 309 of its current Criminal Code to conform to the applicable provisions of international human rights law [...].” The Court considered that “even though the definitions in force in the Paraguayan Criminal Code would permit the criminalization of certain conducts that constitute acts of this nature, their analysis leads to the conclusion that the State defines them in a less comprehensive manner than the applicable international provisions.”

In its [2017 order](#), the Court noted that the State had complied fully with these reparations by the amendment of the legal definition of the crimes of “enforced disappearance” and “torture.” The Court considered that the way in which the State defined the crime of enforced disappearance included all the elements of the definition of enforced disappearance established in Article II of the Inter-American Convention on Forced Disappearance of Persons and developed by the Court’s case law. In addition, regarding the definition of torture, it considered that the definition included all the elements contained in Article 2 of the Inter-American Convention to Prevent and Punish Torture, as well as the components development by the Court’s case law in relation to the intentionality of the act, the severity of the physical or mental suffering, and the object or purpose.

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

The Court ended 2017, with 189 contentious cases at the stage of monitoring compliance with judgment. The updated list of cases at the stage of monitoring compliance with judgment is available [here](#).

The cases in which the Court is monitoring compliance with judgment appear below in two lists. The first list includes the 175 cases where compliance with judgment continues to be pending and is monitored by the Court. The second list contains the 14 cases in which the Court has applied Article 65 of the American Convention, without any change in the situation that had been verified. Those cases also continue at the stage of monitoring compliance with judgment.

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

List of cases at the stage of monitoring compliance  
Excluding those in which Article 65 of the Convention has been applied

| Total number     | Number by State | Name of the case               | Date of the judgment ordering reparations |
|------------------|-----------------|--------------------------------|---|
| <b>ARGENTINA</b> |                 |                                |   |
| 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 <i>et al.</i> | August 26, 2011                           |
| 6                | 6               | Fontev ecchia and D'Amico      | November 29, 2011                         |
| 7                | 7               | Fornerón and daughter          | April 27, 2012                            |
| 8                | 8               | Furlán and family members      | August 31, 2012                           |
| 9                | 9               | Mendoza <i>et al.</i>          | May 14, 2013                              |
| 10               | 10              | Gutiérrez and family           | November 25, 2013                         |
| 11               | 11              | Argüelles <i>et al.</i>        | November 2, 2014                          |
| <b>BARBADOS</b>  |                 |                                |   |
| 12               | 1               | Boyce <i>et al.</i>            | November 20, 2007                         |
| 13               | 2               | Dacosta Cadogan                | September 24, 2009                        |
| <b>BOLIVIA</b>   |                 |                                |   |
| 14               | 1               | Trujillo Oroza                 | February 27, 2002                         |
| 15               | 2               | Ticona Estrada <i>et al.</i>   | November 27, 2008                         |
| 16               | 3               | Ibsen Cárdenas and Ibsen Peña  | September 1, 2010                         |
| 17               | 4               | I.V.                           | November 30, 2016                         |
| 18               | 5               | Andrade Salmón                 | December 1, 2016                          |
| <b>BRAZIL</b>    |                 |                                |   |
| 19               | 1               | Ximenes Lopes                  | July 4, 2006                              |
| 20               | 2               | Garibaldi                      | September 23, 2009                        |

|                 |    |   |                    |
|-----------------|----|---|--------------------|
| 21              | 3  | <b>Gomes Lund <i>et al.</i></b>   | November 24, 2010  |
| 22              | 4  | <b>Hacienda Brazil Verde workers</b>                                    | October 20, 2016   |
| 23              | 5  | <b>Favela Nova Brasília</b>   | February 16, 2017  |
| <b>CHILE</b>    |    |   |                    |
| 24              | 1  | <b>Palamara Iribarne</b>  | November 22, 2005  |
| 25              | 2  | <b>Almonacid Arellano <i>et al.</i></b>                                 | September 26, 2006 |
| 26              | 3  | <b>Atala Riffo and daughters</b>  | February 24, 2012  |
| 27              | 4  | <b>García Lucero</b>  | August 28, 2013    |
| 28              | 5  | <b>Norín Catrimán <i>et al.</i></b>                                     | May 29, 2014       |
| 29              | 6  | <b>Omar Humberto Maldonado Vargas <i>et al.</i></b>                     | September 2, 2015  |
| <b>COLOMBIA</b> |    |   |                    |
| 30              | 1  | <b>Caballero Delgado and Santana</b>                                    | January 29, 1997   |
| 31              | 2  | <b>Las Palmeras</b>   | November 26, 2002  |
| 32              | 3  | <b>19 Traders</b>   | July 5, 2004       |
| 33              | 4  | <b>Gutiérrez Soler</b>  | September 12, 2005 |
| 34              | 5  | <b>Mapiripán Massacre</b>   | September 15, 2005 |
| 35              | 6  | <b>Pueblo Bello Massacre</b>  | January 31, 2006   |
| 36              | 7  | <b>Ituango Massacres</b>  | July 1, 2006       |
| 37              | 8  | <b>La Rochela Massacre</b>  | May 11, 2007       |
| 38              | 9  | <b>Escué Zapata</b>   | July 4, 2007       |
| 39              | 10 | <b>Valle Jaramillo <i>et al.</i></b>                                    | November 27, 2008  |
| 40              | 11 | <b>Manuel Cepeda Vargas</b>   | May 26, 2010       |
| 41              | 12 | <b>Vélez Restrepo and family members</b>                                | September 3, 2012  |
| 42              | 13 | <b>Santo Domingo Massacre</b>   | August 19, 2013    |
| 43              | 14 | <b>Afrodescendent Communities displaced from the Río Cacarica Basin</b> | November 20, 2013  |

|                    |    |  |                   |
|--------------------|----|--|-------------------|
| 44                 | 15 | <b>Rodríguez Vera <i>et al.</i></b>                  | November 14, 2014 |
| 45                 | 16 | <b>Duque</b>   | February 26, 2016 |
| 46                 | 17 | <b>Yarce <i>et al.</i></b>                           | November 22, 2016 |
| 47                 | 18 | <b>Vereda La Esperanza</b>                           | August 31, 2017   |
| <b>COSTA RICA</b>  |    |  |                   |
| 48                 | 1  | <b>Artavia Murillo <i>et al.</i></b>                 | November 28, 2012 |
| 49                 | 2  | <b>Gómez Murillo <i>et al.</i></b>                   | November 29, 2016 |
| <b>ECUADOR</b>     |    |  |                   |
| 50                 | 1  | <b>Suárez Rosero</b>                                 | January 20, 1999  |
| 51                 | 2  | <b>Tibi</b>  | September 7, 2004 |
| 52                 | 3  | <b>Zambrano Vélez <i>et al.</i></b>                  | July 4, 2007      |
| 53                 | 4  | <b>Chaparro Álvarez and Lapo Íñiguez</b>             | November 21, 2007 |
| 54                 | 5  | <b>Vera Vera <i>et al.</i></b>                       | May 19, 2011      |
| 55                 | 6  | <b>Kichwa Indigenous People of Sarayaku</b>          | June 27, 2012     |
| 56                 | 7  | <b>Quintana Coello <i>et al.</i></b>                 | August 23, 2013   |
| 57                 | 8  | <b>Gonzales Lluy <i>et al.</i></b>                   | September 1, 2015 |
| 58                 | 9  | <b>Flor Freire</b>                                   | August 31, 2016   |
| 59                 | 10 | <b>Herrera Espinoza</b>                              | September 1, 2016 |
| 60                 | 11 | <b>Valencia Hinojosa <i>et al.</i></b>               | November 29, 2016 |
| 61                 | 12 | <b>Vásquez Durand <i>et al.</i></b>                  | February 15, 2017 |
| <b>EL SALVADOR</b> |    |  |                   |
| 62                 | 1  | <b>Serrano Cruz Sisters</b>                          | March 1, 2005     |
| 63                 | 2  | <b>García Prieto <i>et al.</i></b>                   | November 20, 2007 |
| 64                 | 3  | <b>Contreras <i>et al.</i></b>                       | August 31, 2011   |
| 65                 | 4  | <b>Massacres of El Mozote and neighboring places</b> | October 25, 2012  |

|                  |    |   |                    |
|------------------|----|---|--------------------|
| 66               | 5  | Rochac Hernández  | October 14, 2014   |
| 67               | 6  | Case of Ruano Torres <i>et al.</i>  | October 5, 2015    |
| <b>GUATEMALA</b> |    |   |                    |
| 68               | 1  | "White Van" (Paniagua Morales <i>et al.</i> )   | March 8, 1998      |
| 69               | 2  | Blake   | January 22, 1999   |
| 70               | 3  | "Street Children" (Villagrán Morales <i>et al.</i> )                                      | May 26, 2001       |
| 71               | 4  | Bámaca Velásquez  | February 22, 2002  |
| 72               | 5  | Myrna Mack Chang  | November 25, 2003  |
| 73               | 6  | Maritza Urrutia   | November 27, 2003  |
| 74               | 7  | Molina Theissen   | July 3, 2004       |
| 75               | 8  | Plan de Sánchez Massacre  | November 19, 2004  |
| 76               | 9  | Carpio Nicolle <i>et al.</i>  | November 22, 2004  |
| 77               | 10 | Fermín Ramírez  | July 20, 2005      |
| 78               | 11 | Raxcacó Reyes   | September 15, 2005 |
| 79               | 12 | Tiu Tojín   | November 26, 2008  |
| 80               | 13 | Las Dos Erres Massacre  | November 24, 2009  |
| 81               | 14 | Chitay Nech <i>et al.</i>   | May 25, 2010       |
| 82               | 15 | Río Negro Massacres   | September 4, 2012  |
| 83               | 16 | Gudiel Álvarez <i>et al.</i> ("Diario Militar")   | November 20, 2012  |
| 84               | 17 | García and family members   | November 29, 2012  |
| 85               | 18 | Veliz Franco  | May 19, 2014       |
| 86               | 19 | Human Rights Defender <i>et al.</i>   | August 28, 2014    |
| 87               | 20 | Velásquez Paiz <i>et al.</i>  | November 19, 2015  |
| 88               | 21 | Chinchilla Sandoval   | February 29, 2016  |
| 89               | 22 | Members of the Aldea Chichupac and neighboring communities of the municipality of Rabinal | November 30, 2016  |

|                  |    |  |                    |
|------------------|----|--|--------------------|
| 90               | 23 | <b>Gutiérrez Hernández <i>et al.</i></b>                     | August 24, 2017    |
| <b>HAITI</b>     |    |  |                    |
| 91               | 1  | <b>Fleury <i>et al.</i></b>                                  | November 23, 2011  |
| <b>HONDURAS</b>  |    |  |                    |
| 92               | 1  | <b>Juan Humberto Sánchez</b>                                 | June 7, 2003       |
| 93               | 2  | <b>López Álvarez</b>   | February 1, 2006   |
| 94               | 3  | <b>Servellón García <i>et al.</i></b>                        | September 21, 2006 |
| 95               | 4  | <b>Kawas Fernández</b>                                       | April 3, 2009      |
| 96               | 5  | <b>Pacheco Teruel <i>et al.</i></b>                          | April 27, 2012     |
| 97               | 6  | <b>Luna López</b>  | October 10, 2013   |
| 98               | 7  | <b>López Lone <i>et al.</i></b>                              | October 5, 2015    |
| 99               | 8  | <b>Triunfo de la Cruz Garifuna Community and its members</b> | October 8, 2015    |
| 100              | 9  | <b>Punta Piedra Garifuna Community and its members</b>       | October 8, 2015    |
| 101              | 10 | <b>Pacheco León <i>et al.</i></b>                            | November 15, 2017  |
| <b>MEXICO</b>    |    |  |                    |
| 102              | 1  | <b>González <i>et al.</i> ("Cotton Field")</b>               | November 16, 2009  |
| 103              | 2  | <b>Radilla Pacheco</b>                                       | November 23, 2009  |
| 104              | 3  | <b>Fernández Ortega <i>et al.</i></b>                        | August 30, 2010    |
| 105              | 4  | <b>Rosendo Cantú <i>et al.</i></b>                           | August 31, 2010    |
| 106              | 5  | <b>Cabrera García and Montiel Flores</b>                     | November 26, 2010  |
| 107              | 6  | <b>García Cruz and Sánchez Silvestre</b>                     | November 26, 2013  |
| <b>NICARAGUA</b> |    |  |                    |
| 108              | 1  | <b>Acosta <i>et al.</i></b>                                  | March 25, 2017     |
| <b>PANAMA</b>    |    |  |                    |

|                 |    |   |                    |
|-----------------|----|---|--------------------|
| 109             | 1  | Baena Ricardo <i>et al.</i>   | November 2, 2001   |
| 110             | 2  | Heliodoro Portugal  | August 12, 2008    |
| 111             | 3  | Vélez Loor  | November 23, 2010  |
| 112             | 4  | Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano and their members | October 14, 2014   |
| <b>PARAGUAY</b> |    |   |                    |
| 113             | 1  | "Juvenile Re-education Institute"   | September 2, 2004  |
| 114             | 2  | Yakye Axa Indigenous Community  | June 17, 2005      |
| 115             | 3  | Sawhoyamaxa Indigenous Community  | March 28, 2006     |
| 116             | 4  | Goiburú <i>et al.</i>   | September 22, 2006 |
| 117             | 5  | Vargas Areco  | September 26, 2006 |
| 118             | 6  | Xákmok Kásek Indigenous Community   | August 24, 2010    |
| <b>PERU</b>     |    |   |                    |
| 119             | 1  | Neira Alegría <i>et al.</i>   | September 19, 1996 |
| 120             | 2  | Loayza Tamayo   | November 27, 1998  |
| 121             | 3  | Castillo Paez   | November 27, 1998  |
| 122             | 4  | Constitutional Court  | January 31, 2001   |
| 123             | 5  | Ivcher Bronstein  | February 6, 2001   |
| 124             | 6  | Cesti Hurtado   | May 31, 2001       |
| 125             | 7  | Barrios Altos   | November 30, 2001  |
| 126             | 8  | Cantoral Benavides  | December 3, 2001   |
| 127             | 9  | Durand and Ugarte   | December 3, 2001   |
| 128             | 10 | Five Pensioners   | February 28, 2003  |
| 129             | 11 | Gómez Paquiyauri Brothers   | July 8, 2004       |
| 130             | 12 | De la Cruz Flores   | November 18, 2004  |
| 131             | 13 | Huilca Tecse  | March 3, 2005      |

|     |    |   |                    |
|-----|----|---|--------------------|
| 132 | 14 | <b>Gómez Palomino</b>   | November 22, 2005  |
| 133 | 15 | <b>García Asto and Ramírez Rojas</b>  | November 25, 2005  |
| 134 | 16 | <b>Acevedo Jaramillo <i>et al.</i></b>  | February 7, 2006   |
| 135 | 17 | <b>Baldeón García</b>   | April 6, 2006      |
| 136 | 18 | <b>Dismissed Congressional Employees (Aguado Alfaro <i>et al.</i>)</b>                                    | November 24, 2006  |
| 137 | 19 | <b>Miguel Castro Castro Prison</b>  | November 25, 2006  |
| 138 | 20 | <b>La Cantuta</b>   | November 29, 2006  |
| 139 | 21 | <b>Cantoral Huamani and García Santa Cruz</b>   | July 10, 2007      |
| 140 | 22 | <b>Acevedo Buendía <i>et al.</i> ("Dismissed and Retired Employees of the Office of the Comptroller")</b> | July 1, 2009       |
| 141 | 23 | <b>Anzualdo Castro</b>  | September 22, 2009 |
| 142 | 24 | <b>Osorio Rivera and family members</b>   | November 26, 2013  |
| 143 | 25 | <b>J</b>  | November 27, 2013  |
| 144 | 26 | <b>Tarazona Arrieta <i>et al.</i></b>   | October 15, 2014   |
| 145 | 27 | <b>Espinoza Gonzáles</b>  | November 20, 2014  |
| 146 | 28 | <b>Cruz Sánchez <i>et al.</i></b>   | April 17, 2015     |
| 147 | 29 | <b>Canales Huapaya <i>et al.</i></b>  | June 24, 2015      |
| 148 | 30 | <b>Wong Ho Wing</b>   | June 30, 2015      |
| 149 | 31 | <b>Campesino Community of Santa Bárbara</b>   | September 1, 2015  |
| 150 | 32 | <b>Galindo Cárdenas <i>et al.</i></b>   | October 2, 2015    |
| 151 | 33 | <b>Quispialaya Vilcapoma</b>  | November 23, 2015  |
| 152 | 34 | <b>Tenorio Roca <i>et al.</i></b>   | June 22, 2016      |
| 153 | 35 | <b>Pollo Rivera <i>et al.</i></b>   | October 21, 2016   |
| 154 | 36 | <b>Zegarra Marín</b>  | February 15, 2017  |
| 155 | 37 | <b>Lagos del Campo</b>  | August 31, 2017    |

|                           |    |   |                    |
|---------------------------|----|---|--------------------|
| 156                       | 38 | <b>Dismissed Employees of PetroPeru <i>et al.</i></b>   | November 23, 2017  |
| <b>DOMINICAN REPUBLIC</b> |    |   |                    |
| 157                       | 1  | <b>Yean and Bosico Girls</b>                            | September 8, 2005  |
| 158                       | 2  | <b>González Medina and family members</b>               | February 27, 2012  |
| 159                       | 3  | <b>Nadege Dorzema <i>et al.</i></b>                     | October 24, 2012   |
| 160                       | 4  | <b>Expelled Dominicans and Haitians</b>                 | August 28, 2014    |
| <b>SURINAME</b>           |    |   |                    |
| 161                       | 1  | <b>Moiwana Community</b>                                | June 15, 2005      |
| 162                       | 2  | <b>Saramaka People</b>                                  | November 28, 2007  |
| 163                       | 3  | <b>Liakat Ali Alibux</b>                                | January 30, 2014   |
| 164                       | 4  | <b>Kaliña and Lokono Peoples</b>                        | November 25, 2015  |
| <b>URUGUAY</b>            |    |   |                    |
| 165                       | 1  | <b>Gelman</b>   | February 24, 2011  |
| 166                       | 2  | <b>Barbani Duarte <i>et al.</i></b>                     | October 13, 2011   |
| <b>VENEZUELA</b>          |    |   |                    |
| 167                       | 1  | <b>El Amparo</b>  | September 14, 1996 |
| 168                       | 2  | <b>El Caracazo</b>                                      | August 29, 2002    |
| 169                       | 3  | <b>Chocrón Chocrón</b>                                  | July 1, 2011       |
| 170                       | 4  | <b>Barrios family</b>                                   | November 24, 2011  |
| 171                       | 5  | <b>Díaz Peña</b>  | June 26, 2012      |
| 172                       | 6  | <b>Uzcátegui <i>et al.</i></b>                          | September 3, 2012  |
| 173                       | 7  | <b>Landaeta Mejías Brothers <i>et al.</i></b>           | August 27, 2014    |
| 174                       | 8  | <b>Granier <i>et al.</i> (Radio Caracas Televisión)</b> | June 22, 2015      |
| 175                       | 9  | <b>Ortiz Hernández <i>et al.</i></b>                    | August 22, 2017    |

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

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

| List of cases at the stage of monitoring compliance<br>In which Article 65 of the Convention has been applied and the situation verified has not changed |                 |                           |                                       |
|--|-----------------|---------------------------|---------------------------------------|
| Total number   | Number by State | Name of the case          | Date of judgment ordering reparations |
| ECUADOR  |                 |                           |                                       |
| 1  | 1               | <b>Benavides Cevallos</b> | June 19, 1998                         |
| HAITI  |                 |                           |                                       |
| 2  | 1               | <b>Yvon Neptune</b>       | May 6, 2008                           |
| NICARAGUA  |                 |                           |                                       |

|                     |   |  |                   |
|---------------------|---|--|-------------------|
| 3                   | 1 | YATAMA   | June 23, 2005     |
| TRINIDAD AND TOBAGO |   |  |                   |
| 4                   | 1 | Hilaire, Constantine and Benjamin <i>et al.</i>                        | June 21, 2002     |
| 5                   | 2 | Caesar   | March 11, 2005    |
| VENEZUELA           |   |  |                   |
| 6                   | 1 | Blanco Romero <i>et al.</i>  | November 28, 2005 |
| 7                   | 2 | Montero Aranguren <i>et al.</i> (Retén de Catia)                       | July 5, 2006      |
| 8                   | 3 | Apitz Barbera <i>et al.</i> ("First Administrative Contentious Court") | August 5, 2008    |
| 9                   | 4 | Ríos <i>et al.</i>   | January 28, 2009  |
| 10                  | 5 | Perozo <i>et al.</i>   | January 28, 2009  |
| 11                  | 6 | Reverón Trujillo   | June 30, 2009     |
| 12                  | 7 | Barreto Leiva  | November 17, 2009 |
| 13                  | 8 | Usón Ramírez   | November 20, 2009 |
| 14                  | 9 | López Mendoza  | September 1, 2011 |

## 11. List of cases closed following compliance with judgment

| List of cases closed following compliance with judgment |                                   |                                       |                            |
|---|-----------------------------------|---------------------------------------|----------------------------|
| Total number  | Cases closed following compliance | Date of judgment ordering reparations | Date of order closing 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          |
| BOLIVIA   |                                   |                                       |                            |

|                   |  |                    |                    |
|-------------------|--|--------------------|--------------------|
| 5                 | 1. Pacheco Tineo family  | November 25, 2013  | April 17, 2015     |
| <b>BRAZIL</b>     |  |                    |                    |
| 6                 | 1. Escher <i>et al.</i>  | July 6 2009        | June 19, 2012      |
| <b>CHILE</b>      |  |                    |                    |
| 7                 | 1. "The Last Temptation of Christ" (Olmedo Bustos <i>et al.</i> )    | February 5, 2001   | November 28, 2003  |
| 8                 | 2. Claude Reyes <i>et al.</i>  | September 19, 2006 | November 24, 2008  |
| <b>COSTA RICA</b> |  |                    |                    |
| 9                 | 1. Herrera Ulloa   | July 2, 2004       | November 22, 2010  |
| <b>ECUADOR</b>    |  |                    |                    |
| 10                | 1. Acosta Calderón   | June 24, 2005      | February 6, 2008   |
| 11                | 2. Albán Cornejo <i>et al.</i>                                       | November 22, 2007  | August 28, 2015    |
| 12                | 3. Salvador Chiriboga  | March 3, 2011      | May 3, 2016        |
| 13                | 4. Mejía Idrovo  | July 5, 2011       | September 4, 2012  |
| 14                | 5. Suárez Peralta  | May 21, 2013       | August 28, 2015    |
| 15                | 6. Case of the Constitutional Tribunal (Camba Campos <i>et al.</i> ) | August 28, 2013    | June 23, 2016      |
| 16                | 7. García Ibarra <i>et al.</i>                                       | November 17, 2015  | November 14, 2017  |
| <b>GUATEMALA</b>  |  |                    |                    |
| 17                | 1. Maldonado Ordóñez   | May 3, 2016        | August 30, 2017    |
| <b>HONDURAS</b>   |  |                    |                    |
| 18                | 1. Velásquez Rodríguez   | July 21, 1989      | September 10, 1996 |
| 19                | 2. Godínez Cruz  | September 10, 1993 | September 10, 1996 |
| <b>MEXICO</b>     |  |                    |                    |
| 20                | 1. Castañeda Gutman  | August 6, 2008     | August 28, 2013    |
| <b>NICARAGUA</b>  |  |                    |                    |
| 21                | 1. Genie Lacayo  | January 21, 1997   | August 29, 1998    |
| 22                | 2. Mayagna (Sumo) Awas Tingni Community                              | August 31, 2001    | April 3, 2009      |
| <b>PANAMA</b>     |  |                    |                    |
| 23                | 1. Tristán Donoso  | January 27, 2009   | September 1, 2010  |
| <b>PARAGUAY</b>   |  |                    |                    |
| 24                | 1. Ricardo Canese  | August 31, 2004    | August 6, 2008     |
| <b>PERU</b>       |  |                    |                    |
| 25                | 1. Castillo Petrucci <i>et al.</i>                                   | May 30, 1999       | September 20, 2016 |
| 26                | 2. Lori Berenson Mejía   | November 25, 2004  | June 20, 2012      |
| 27                | 3. Abrill Alosilla <i>et al.</i>                                     | November 21, 2011  | May 22, 2013       |
| <b>SURINAME</b>   |  |                    |                    |
| 28                | 1. Aloeboetoe <i>et al.</i>  | July 20, 1989      | February 5, 1997   |
| 29                | 2. Gangaram Panday   | January 21, 1994   | November 27, 1998  |

## VI. Provisional Measures and Urgent Measures

In 2017, the Court issued 22 orders on provisional measures. These orders had different purposes, namely: (i) to adopt provisional measures or urgent measures; (ii) to request information; (iii) to continue or, when appropriate, expand provisional measures; (iv) to lift the measures totally or partially; (v) to reject requests to expand provisional measures, and (vi) to reject requests for provisional measures.

Also, during 2017, the Court held three public hearings on provisional measures regarding the following matters:

1. Certain Prisons with regard to Venezuela;
2. Certain Prisons with regard to Brazil, and
3. Matter of the Peace Community of San José de Apartadó with regard to Colombia.

Furthermore, for the second time, the Court conducted a judicial procedure in order to monitor compliance with provisional measures, consisting in the visit to a Brazilian prison in the context of the Matter of the Plácido de Sá Carvalho Prison Complex with regard to Brazil.

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### A. Adoption of new Provisional Measures and Urgent Measures

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#### Matter of the Plácido de Sá Carvalho Prison Complex with regard to Brazil

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On January 23, 2017, the Commission submitted a request for provisional measures for the Court to require the State of Brazil to adopt forthwith the necessary measures to preserve the life and personal integrity of the persons deprived of liberty in the Plácido de Sá Carvalho Prison Complex, as well as of any other person in this establishment.

In an order of February 13, 2017, the Court found it necessary to protect these persons by the immediate adoption of provisional measures by the State, to avoid acts of violence in the Plácido de Sá Carvalho Prison Complex, and also harm to the physical, mental and moral integrity of the persons deprived of liberty in this establishment. In addition, the Court determined that an Inter-American Court delegation should visit the prison in order to obtain pertinent information directly from the parties to enable it to monitor compliance with the provisional measures, following the

agreement of, and in coordination with, the Federative Republic of Brazil. The visit took place on February 19, 2017.

In an order of August 31, 2017, the Court took note of the undertaking made by Brazil to improve the conditions of the persons deprived of liberty in the country's prisons and, especially, in the state of Rio de Janeiro. However, it emphasized that the situation of the beneficiaries continued to be of great concern and called for urgent structural changes. The Court therefore decided to require the State to adopt immediately all necessary measures to comply with the provisional measures ordered.

The order of February 2017 can be found [here](#) and the order of August 31, 2017, [here](#).

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

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On March 18, 2017, the Commission submitted a request for provisional measures for the Court to order the State of Mexico to protect the life and personal integrity of the members of the Choréachi indigenous community located in the Sierra Tarahumara, state of Chihuahua, Mexico.

In an order of March 25, 2017, the Inter-American Court took note of the context of violence in the region of the Sierra Tarahumara in the municipality of Guadalupe y Calvo, with the possible presence of "organized criminal groups," as well as the escalation of the situation that had been ongoing from 2015 to the present and that included threats to members of the community and, in January 2017, the death of one of them, who had previously received death threats, from bullet injuries. Consequently, the Court ordered the State to adopt, immediately, all necessary actions to protect and ensure respect for the life and personal integrity of the members of the Choréachi indigenous community.

The order of March 2017 can be found [here](#).

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### Matter of Milagro Sala with regard to Argentina

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On November 3, 2017, the Commission submitted a request for provisional measures for the Court to order the State of Argentina to adopt the necessary measures to guarantee the life and personal integrity of Milagro Sala in the context of her current deprivation of liberty.

In an order of November 23, 2017, the Court noted that the medical and psychological reports revealed a situation of risk to the personal integrity and health (both mental and physical) of Ms. Sala, associated with the judicial proceedings underway against her. It therefore decided to grant provisional measures in order to protect Milagro Sala's life, personal integrity and health, based on the beneficiary's particular circumstances.

The order of November 2017 can be found [here](#).

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### Case of Torres Millacura et al. v. Argentina.

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On September 20, 2017, the victims' representatives requested provisional measures for the Court to order the State of Argentina to protect the life, personal integrity and personal liberty of Luis Patricio Oliva, the "main witness, closely related to the purpose of the case of Torres Millacura [...] et al. [v]. Argentina," as well as of his companion and daughter.

In an order of November 14, 2017, the Court considered that the life and personal integrity of Mr. Oliva were threatened and in grave danger because, presumably, he was being harassed by police agents implicated in the domestic criminal proceedings in which he was a witness for the prosecution and in which other witnesses had already been murdered. Consequently, the Court found it pertinent to order provisional measures of protection in favor of Luis Patricio Oliva, his companion and his daughter. To this end, it ordered the State to assess the specific situation of the possible danger for Mr. Oliva and his family and to present this to the Court by January 29, 2018, at the latest. In addition, it established that the measures could not be implemented by the law enforcement or state authorities who were behind the alleged threats and harassment.

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

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### Case of Durand and Ugarte v. Peru

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On December 11, 2017, the victims' representatives requested the Court to "impose a provisional measure to protect the tenure" of the justices of the Constitutional Court of Peru, Manuel Miranda Canales, Marianella Ledesma Narváez, Carlos Ramos Núñez and Eloy Espinosa-Saldaña Barrera. They indicated that "[i]t was sought to remove the said constitutional justices by a measure that was exclusively political and aimed at preventing implementation of the Inter-American Court's decisions" in the judgment in the case of *Durand and Ugarte*, and that "also seeks to intimidate all Peruvian judges from performing their functions independently."

In an order of December 17, 2017, the President of the Inter-American Court, in consultation with the other judges, required the State of Peru to suspend immediately the constitutional indictment process filed against Justices Manuel Miranda, Marianella Ledesma, Carlos Ramos and Eloy Espinosa-Saldaña, until the full Court had been able to examine the request for provisional measures at its 121<sup>st</sup> Regular Session, to be held at its seat in San José, Costa Rica, from January 29 to February 9, 2018.

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

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

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### Matter of Certain Prisons with regard to Brazil: Socio-educational Internment Unit, Curado Prison Complex, Pedrinhas Prison Complex and Plácido de Sá Carvalho Prison Complex

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In a joint order of February 13, 2013, with regard to certain Brazilian prisons, the Court required the State to provide specific differentiated information on each of the four provisional measures that were being monitored, and also with regard to the Brazilian prison system. In the same order, it notified that a delegation from the Court would visit the State of Brazil to obtain pertinent information from the parties directly, in order to monitor compliance with the provisional measures, with the agreement of, and in coordination with, the

The order of February 2017 can be found [here](#).

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### Case of Fernández Ortega et al. v. Mexico

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In an order of February 7, 2017, the Court took note of the death of one of the beneficiaries of the provisional measures, and therefore found it pertinent to lift the provisional measures ordered in his favor. In addition, it noted that eight beneficiaries who had been granted provisional measures because they were members of the Montaña Tlachinollan Human Rights Center no longer worked for this organization. Consequently, and since no additional information had been provided that would justify a situation of risk for them, the Court found it pertinent to lift the measures granted in their favor.

In the same order, the Court decided to maintain the provisional measures ordered in favor of the other beneficiaries for an additional period until September 29, 2017. However, in a note of the Secretariat of August 23, 2017, the Court advised that the full Court, sitting at its 119th Regular Session, had decided to extend the effects of the provisional measures ordered in this case until March 28, 2018, in order to receive the observations of the beneficiaries' representatives and the Inter-American Commission on the State's report of August 1, 2017, pursuant to the said order, before making a ruling on these measures.

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

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### Matter of the Peace Community of San José de Apartadó with regard to Colombia

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In an order of June 26, 2017, the Court declared that the individual provisional measures granted in favor of one beneficiary had ceased to have effects because he was deceased. It also reiterated to the State that it should maintain any measures it had adopted and order, immediately, any others that were necessary to protect effectively the life and personal integrity of the members of the Peace Community of San José de Apartadó; in particular owing to the presumed presence of unlawful armed groups around the Community in recent months.

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

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### Matter of the Inhabitants of the Miskitu Indigenous Peoples Communities of the North Caribbean Coastal Region with regard to Nicaragua

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In an order of the President of the Court of June 30, 2017, it was decided to expand the provisional measures issued in this matter, for the State of Nicaragua to include immediately, within the measures granted in the orders of September 1 and November 23, 2016, the members of the Miskitu indigenous people who live in the community of Esperanza Río Wawa, as well as the persons who presumably have had to abandon that community and wished to return, and also to provide measures of safety and protection for their return. In addition, it required the State to take the necessary measures to include the beneficiaries of the expansion of the provisional measures in the other measures established by the Court in its order of September 1, 2016.

Subsequently, in an order of the Inter-American Court of Human Rights of August 22, 2017, the full Court ratified the order of June 30, 2017.

The above orders can be found [here](#) and [here](#).

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### Matter of Mery Naranjo et al. with regard to Colombia

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In an order of August 22, 2017, the Court noted that even though it had not received information for more than two years about new acts against the beneficiaries, on repeated occasions the danger to Mrs. Naranjo and Mrs. Mosquera had been classified as “extraordinary” by the pertinent domestic authorities. In addition, from the information and comments provided to the Court it did not appear that this situation of danger had changed, and the State had indicated that it had not made a “risk re-assessment” that would determine this. Therefore, the Court concluded that it was desirable to request more precise information from the State and to maintain in effect the provisional measures ordered.

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

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### Matter of Alvarado Reyes et al. with regard to Mexico

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In an order of November 14, 2017, the Inter-American Court expressed regret for the death of two beneficiaries, which caused it to lift the measures ordered for them. However, it decided to maintain, or order the State to implement immediately, any measures required to determine as soon as possible, the whereabouts of three beneficiaries, and to protect their life, and personal integrity and liberty. It also decided to maintain the measures that were being implemented for another group of beneficiaries, and that the State should adopt, immediately and definitively, any supplementary measures required and effective to protect their rights to life and personal integrity. Furthermore, it requested the State to present information by March 2, 2018, at the latest, and the Mexican National Human Rights Commission to present a report by that date on its assessment of the risk and the protection measures that could be implemented in favor of the beneficiaries.

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

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### Matter of Rueda with regard to Colombia

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In an order of November 14, 2017, the Court considered that three years after the adoption of these provisional measures the situation of extreme gravity and urgency to prevent violations of the rights to integrity and life of Danilo Rueda subsists, so that the State must maintain the measures of protection ordered in his favor. The Court specified that these measures should be implemented in any place that the beneficiary carried out his activities, in coordination with the beneficiary and his representatives. Such measures should be designed to eliminate the danger in which the beneficiary finds himself. In addition, the Court required the State to present a detailed report on the current situation of the beneficiary by March 1, 2018, at the latest, and asked the Ombudsman's Office to present a similar report.

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

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### Matter of Castro Rodríguez with regard to Mexico

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In an order of November 14, 2017, the Court ordered that the provisional measures in favor of the beneficiary be maintained and considered it essential that the State: (a) with the participation of the beneficiary's representatives, take the pertinent steps to adopt a new security plan for Ms. Castro Rodríguez in order to guarantee her personal integrity and life, taking into account the change in her current circumstances, and (b) inform the Court of the actions taken and the progress made and, in particular, about the timetable to be followed to implement the measures. It also requested the Mexican National Human Rights Commission to present a report to the Court on the situation of risk and the measures of protection by February 21, 2018, at the latest.

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

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### Matter of Almanza Suárez with regard to Colombia

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The order of November 15, 2017, established that the provisional measures ordered in favor of Luz Elsie Almanza Suárez should be maintained, and therefore required the State to continue adopting any necessary measures to protect her life and personal integrity based on the particular situation and circumstances of the case.

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

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### Matter of the Curado Prison Complex with regard to Brazil

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In an order of November 15, 2017, the Court decided to maintain the present provisional measures and asked the State to report on all the actions taken to comply with the provisional measures ordered, the situation of risk for the beneficiaries, and the measures of a permanent nature to guarantee the protection of the beneficiaries in this unit.

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

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## C. Provisional Measures that have been lifted completely

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### Case of the La Rochela Massacre v. Colombia.

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In an order of February 16, 2017, the Court noted that effective judicial guarantees now existed for the protection of basic human rights in the domestic sphere, including for Ms. Martínez, Ms. Carvajal and Ms. Uribe, who could be threatened by unacceptable situations of danger. Institutional mechanisms also existed to protect persons at risk; these were applicable to the three beneficiaries and did not necessarily depend on the intervention of the courts. Therefore, the Court considered that its intervention was no longer appropriate, and that it should lift the provisional measures in favor of Ms. Martínez, Ms. Carvajal and Ms. Uribe.

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

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## D. Requests for Provisional Measures rejected

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### Case of I.V. v. Bolivia.

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In an order of May 25, 2017, the Court rejected the request for provisional measures filed by the representative of I.V., because the issue referred to the Court was not a matter for provisional measures in the terms of Article 63(2) of the American Convention on Human Rights, but rather related to the measure of reparation ordered in the eighth operative paragraph of the judgment on preliminary objections, merits, reparations and costs in this case, delivered on November 30, 2016, which is at the stage of monitoring compliance.

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

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### Matter of Rojas Madrigal in relation to the Case of Amrhein et al. with regard to Costa Rica

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In an order of May 25, 2017, the Court declared that the request for provisional measures filed in favor of Rafael Antonio Rojas Madrigal was no longer relevant. Initially, on May 2, 2017, Rafael Antonio Rojas Madrigal, presumed victim in the case of Amrhein *et al.* v. Costa Rica, and his representative requested provisional measures indicating that he faced real danger in La Reforma Detention Center. However, on May 10, 2017, Mr. Rojas Madrigal advised the Court that he had been transferred to an adult detention center, “[...] where [he felt] that his physical integrity was safe and secure.” Consequently, the Court appreciated the prompt and effective response of the State of Costa Rica to Mr. Rojas Madrigal’s request and considered that this request for provisional measures was no longer relevant.

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

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### Case of Gutiérrez Soler v. Colombia.

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In its order August 22, 2017, the Court found it inappropriate to adopt the provisional measures requested in this case, because, among other matters, based on the representative’s observations, the facts that it would have to examine did not appear to have any connection to a situation of danger related to the case of Gutiérrez Soler. The events that took place more than two and a half years ago did not consist of threats or direct physical attacks and, although this did not necessarily prevent the Court from considering the situation, the representative had not

explained sufficiently that this type of situation revealed a risk that Mr. Gutiérrez Soler or the members of his family would suffer irreparable harm.

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

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

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In an order of November 15, 2017, the Court rejected as inadmissible the request filed by the representatives of the beneficiaries for an expansion of the provisional measures. It considered that the representatives' request did not correspond to an expansion of measures, because its purpose was not to extend the protection of the provisional measures that had been ordered, but rather constituted a new request involving persons deprived of liberty in a different unit from the one in which those who were already protected by provisional measures were interned.

In the same order, the Court decided that the State should continue adopting, immediately, any necessary measures to eliminate the situations of risk and protect the life and personal, mental and moral integrity of the children and adolescents deprived of liberty in the Socio-educational Internment Unit, as well as any other persons within the facilities. It also decided to evaluate, within one year and pursuant to Article 27(8) of its Rules of Procedure, the pertinence of a delegation from the Inter-American Court carrying out an on-site visit to the Socio-educational Internment Unit, and of requesting an expert opinion on the matter, or the presence of an expert during such a visit, to verify the implementation of the provisional measures, following the consent of, and in coordination with, the Federative Republic of Brazil.

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

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### Judicial procedure on monitoring provisional measures in Brazil: Matter of the Plácido de Sá Carvalho Prison Complex (IPPSC)

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On June 19, 2017, a delegation from the Court composed of Judge Raúl Zaffaroni, the Legal Counsel, Alexei Julio, and a Secretariat lawyer, accompanied by several representatives of the State and the representatives of the beneficiaries, conducted, for only the second time, an on-site procedure in the context of monitoring the implementation of provisional measures. Specifically, it monitored the matter of the Plácido de Sá Carvalho Prison Complex (IPPSC).

The procedure was conducted in two parts. First, a coordination meeting was held with the parties to obtain updated information on the situation of the IPPSC and, second, a visit of approximately three hours was made to the prison complex. The State and the representatives presented updated information on the measures taken in relation to: (a) medical assistance; (b) overcrowding; (c) the safety and integrity of the inmates, and (d) infrastructure.

During the visit, the Court's delegation noted that the IPPSC is part of the Gericinó Prison Complex, located in the neighborhood of Bangu, in the northern part of the city of Rio de Janeiro.

The complex has 26 units for different types of imprisonment (closed regime, maximum security, open regime, semi-open regime, women’s prison and juvenile prison), with a total population of 28,000 inmates (of a total of 51,000 in the state of Río de Janeiro). Given that the IPPSC is located within the walls of the complex, the possibilities of escape are very remote; however, it has an open space of approximately 37,000 square meters. It is the last detention center prisoners are sent to before they are released.

The delegation visited pavilions A, B, C and the isolation sector of the IPPSC, as well as the infirmary, kitchen, education facilities, yard, rubbish dump, and hydraulic system.

Subsequently, in an order of August 31, 2017, the Court analyzed the visit, together with the information presented by the State, the representatives, and the Inter-American Commission. It took note of Brazil’s undertaking to improve the conditions of persons deprived of liberty in the country’s prisons and, especially, those in the state of Rio de Janeiro. However, the Court emphasized that the situation of the beneficiaries continued to cause concern and required urgent structural changes. It therefore decided to require the State to adopt, immediately, all necessary measures to protect the life and personal integrity of all the persons deprived of liberty in the Plácido de Sá Carvalho Prison Complex, as well as any other person in this establishment, including prison guards and officials, and visitors.

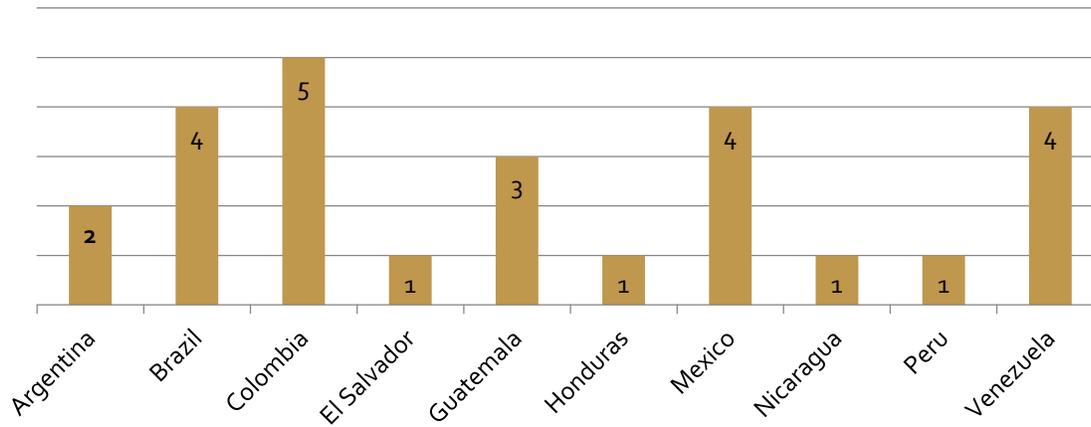
## Current status of Provisional and Urgent Measures

Currently, the Court is monitoring the following 26 provisional measures:

| Current status of Provisional and Urgent Measures |                                   |  |
|---|-----------------------------------|--|
| Number  | Name of case or matter            | State regarding which the provisional measures have been adopted |
| •   | Milagro Sala                      | Argentina  |
| •   | Torres Millacura                  | Argentina  |
| •   | Socio-educational Internment Unit | Brazil   |
| •   | Curado Prison Complex             | Brazil   |
| •   | Pedrinhas Prison Complex          | Brazil   |

- Plácido de Sá Carvalho Prison Complex Brazil
- 19 Traders Colombia
- Peace Community of San José de Apartadó Colombia
- Álvarez *et al.* Colombia
- Danilo Rueda Colombia
- Mery Naranjo *et al.* Colombia
- Meléndez Quijano *et al.* El Salvador
- Bámaca Velásquez Guatemala
- Forensic Anthropology Foundation Guatemala
- Mack Chang Guatemala
- Kawas Fernández Honduras
- Alvarado Reyes *et al.* Mexico
- Castro Rodríguez Mexico
- Fernández Ortega *et al.* Mexico
- Members of the Choréachi Indigenous Community Mexico
- Inhabitants of the Miskitu Indigenous Peoples  
Communities of the Northern Caribbean Coastal  
Region Nicaragua
- Durand and Ugarte Peru
- Certain Venezuelan Prisons Venezuela
- Barrios family Venezuela
- Luisiana Ríos *et al.* Venezuela
- Uzcátegui *et al.* Venezuela

### Active provisional and urgent measures, by State, at the end of 2017



## CURRENT STATUS OF PROVISIONAL MEASURES AND URGENT MEASURES



### 1 Argentina

Milagro Sala  
Torres Millacura et al.

### 2 Brazil

Pedrinhas Prison Complex  
Socio-educational Internment Unit  
Curado Prison Complex  
Plácido de Sá Carvalho Prison Complex

### 3 Colombia

Peace Community of San José de Apartadó  
Mery Naranjo et al.  
19 Traders  
Almanza Suarez  
Danilo Rueda

### 4 El Salvador

Meléndez Quijano et al.

### 5 Guatemala

Mack Chang  
Bámaca Velésquez  
Forensic Anthropology Foundation

### 6 Honduras

Andino Alvarado (Kaivas Fernández)

### 7 Mexico

Alvarado Reyes et al.  
Castro Rodríguez  
Fernández Ortega et al.  
Members of the Choréachi Indigenous Community

### 8 Nicaragua

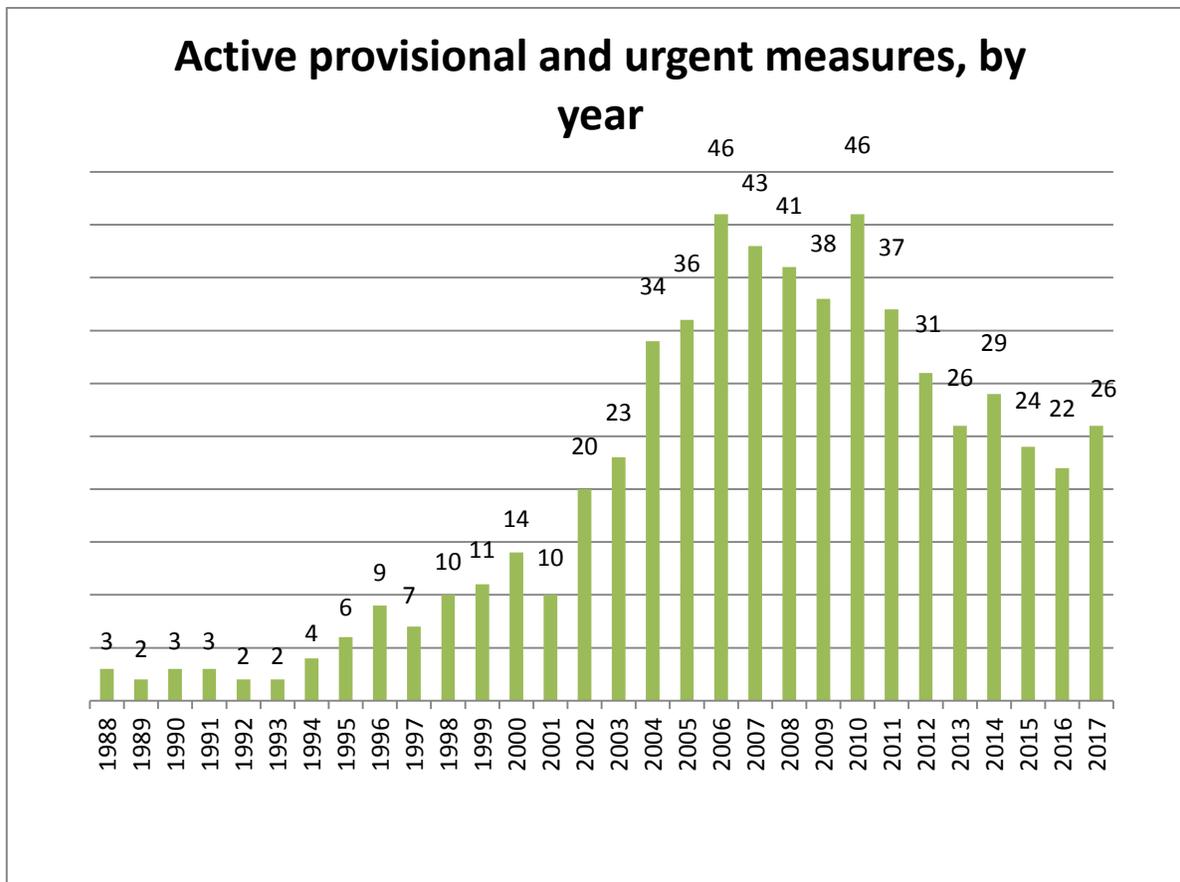
Inhabitants of the Miskitu Indigenous Peoples  
Communities of the Northern Caribbean Coastal Region

### 9 Peru

Case of Durand and Ugarte

### 10 Venezuela

Luisiana Rios et al.  
Uzcátegui et al.  
Barrios family  
Certain Venezuelan Prisons



## VII. Advisory function

In 2017 the Court handed down two advisory opinions regarding: i) the undeniable relationship between environmental protection and the realization of other human rights, and ii) the gender identity, and equality and non-discrimination to same-sex couples.

In addition, two requests for advisory opinions are under consideration by the Court. The first one was requested by the State of Ecuador and it is related to the institution of asylum in its various forms and the legality of its recognition as a human right of all persons in accordance with the principle of equality and non-discrimination. The other one was requested by the Inter-American Commission on Human Rights and is related to due process guarantees and the principle of legality in the context of political trials against democratically and constitutionally elected presidents.

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### OC-23 Advisory Opinion on the Environment and Human Rights

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The State of Colombia presented a request for an advisory opinion on March 14, 2016, for the Inter-American Court to interpret the obligations arising from Articles 1(1) (Obligation to Respect Rights), 4(1) (Right to Life) and 5(1) (Right to Humane Treatment) of the American Convention on Human Rights, in relation to the impact of major projects on the marine environment, specifically in the Greater Caribbean Region.

For the first time, the Inter-American Court developed the content of the right to a healthy environment. In the inter-American sphere, this is regulated by both Article 11 of the Protocol of San Salvador, and Article 26 of the American Convention which refers to the economic, social and cultural rights. The Court underlined the interdependence and indivisibility of human rights, the environment and sustainable development. The Advisory Opinion also determined state obligations regarding protection of the environment. Among other matters, it emphasized that States are obliged to respect and ensure the human rights of everyone and this may include, according to the specific case and exceptionally, situations that go beyond their territorial limits. Similarly, States have the obligation to avoid transboundary damage. Furthermore, the Inter-American Court established the obligations derived from respecting and ensuring the rights to life and personal integrity in the context of the protection of the environment. In particular, it determined that States must: prevent significant environmental damage within or outside their territory, and this means that they must regulate, supervise and monitor activities that fall within their jurisdiction, prepare environmental impact assessments, establish contingency plans, and mitigate any damage that occurs; act in accordance with the principle of precaution when faced with possible serious or irreversible damage to the environment that could affect the rights to life and personal integrity, even in the absence of scientific certainty; cooperate with other States in

good faith in the protection against significant environmental damage; ensure access to information on possible harm to the environment; guarantee the right to public participation in decision-making and policies that may affect the environment, and ensure access to justice in relation to the state obligations for protection of the environment.

The complete text of the Advisory Opinion can be found [here](#) and the official summary [here](#). During the proceeding, which was broadly participatory, the Court received 51 briefs with observations from States, state agencies, national and international organizations, academic institutions, non-governmental organizations and individuals. These briefs can be found [here](#). Also, on March 22, 2017, a public hearing was held in Guatemala City during which the Court received the oral observations of 26 delegations. The video of the hearing can be found [here](#).

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### OC-24 Advisory Opinion on Gender Identity, and non-discrimination towards same-sex couples

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The State of Costa Rica presented a request for an advisory opinion on May 18, 2016, for the Inter-American Court to interpret: (a) the protection provided by the American Convention on Human Rights to recognition of the change of name in accordance with the gender identity of the individual concerned; (b) the compatibility with the American Convention of the practice of applying article 54 of the Civil Code of the Republic of Costa Rica to those wishing to change their name based on their gender identity, considering that “this procedure entails expenses for the applicant and entails a lengthy delay,” and (c) the protection provided by the American Convention to recognition of the patrimonial rights derived from a relationship between persons of the same sex.

In the Advisory Opinion, the Court defined gender identity as “the internal and individual experience of gender as each person feels it, which may or may not correspond to the sex assigned at birth.” The right to gender and sexual identity is related to the concept of freedom and every individual’s possibility of self-determination and free choice of the options and circumstances that give a meaning to his or her existence, based on their own options and convictions. The Court asserted that “State recognition of gender identity is critical to ensuring that transgender persons can fully enjoy all human rights.” These include, among others, the right to protection against all forms of violence, torture and ill-treatment, as well as the guarantee of the right to health, education, employment, housing, access to social security, and to freedom of expression and of association.

Consequently, responding to the questions raised by Costa Rica, the Court considered that the change of name, adaptation of the photograph, and rectification of the mention of sex or gender in public records and on identity documents so that these conform to the self-perceived gender identity was a right protected by the American Convention. Accordingly, States are obliged to recognize, regulate and establish appropriate procedures to this end.

The Inter-American Court also specified the minimum conditions that these domestic procedures should meet. They should: be aimed at reflecting the self-perceived gender identity; be based on free and informed consent; not require medical or psychological certifications that would be unreasonable or pathologizing; be confidential, protect personal data, and not reflect changes in gender identity; be prompt and cost-free insofar as possible, and not require providing evidence of surgical and/or hormonal treatments. In addition, the Court concluded that procedures of an administrative nature are those most adapted to these requirements. The Court also clarified that such a procedure need not necessarily be regulated by law.

Furthermore, with regard to the question raised by Costa Rica on the name change procedure established in article 54 of the Civil Code, the Court considered that this could be compatible with the American Convention in order to change identity data in conformity with the gender identity of applicants, provided that it was either interpreted by a court or regulated administratively to correspond to a materially administrative procedure and to comply with the minimum requirements described above.

Lastly, the Court also indicated that the State of Costa Rica, in order to guarantee the protection of human rights as effectively as possible, could issue regulations incorporating the above-mentioned standards into the materially administrative procedure that it could provide in parallel.

With regard to the protection of same-sex couples, the Court reiterated that the American Convention does not protect a specific model of family. Since the definition of family is not exclusively that composed of a heterosexual couple, the Court considered that the family relationship that may arise from the relationship of a same-sex couple is protected by the American Convention. Therefore, it found that all the patrimonial rights that are derived from the family relationship of same-sex couples should be protected, without any discrimination in relation to heterosexual couples. The Court considered that this international obligation of States went beyond the protection of merely patrimonial matters and included all the human rights recognized to heterosexual couples, both internationally and in the domestic law of each State.

In this regard, the Court affirmed that, to ensure the rights of same-sex couples, it was not necessary to create new legal mechanisms and, consequently, chose to extend existing institutions to same-sex couples – including marriage – based on the *pro persona* principle. The Court considered that this would be the most simple and effective way of ensuring the rights derived from the relationship between same-sex couples.

In addition, in the Court's opinion, "there would be no sense in creating an institution that produces the same effects and gives rise to the same rights as marriage, but that is not called marriage. It would merely draw attention to same-sex couples by a name that indicates a difference that stigmatizes them or, at the very least, belittles them." On this basis, the Court considered inadmissible the existence of two classes of formal union to legally constitute the community of heterosexual and homosexual cohabitation, because "this would create a

distinction based on an individual's sexual orientation that would be discriminatory and, therefore, incompatible with the American Convention."

The Court found that, at times, the opposition to the marriage of same-sex couples was based on philosophical or religious convictions. Although it recognized the important role that such convictions played in the life and dignity of those who profess them, it considered that such convictions could not be used to condition the provisions of the American Convention in relation to non-discrimination based on sexual orientation. The Court added that, in democratic societies, a climate of peaceful coexistence must exist between the secular and the religious elements, so that the role of the States and of the Inter-American Court was to recognize the sphere inhabited by each of them, and never force one into the sphere of the other.

The Court understood that the principle of human dignity is derived from the full autonomy of the individual to choose with whom he or she wishes to enter into a permanent and marital relationship, either a natural one (*de facto* union) or a formal one (marriage). The Court observed that this free and autonomous choice forms part of the dignity of each person and is intrinsic to the most intimate and relevant aspects of his or her identity and life project. It added that provided there is the intention to enter into a permanent relationship and form a family, ties exist that merit equal rights and protection whatever the sexual orientation of the parties. The Court maintained that when asserting this, it was not diminishing the institution of marriage but, to the contrary, considered marriage necessary to recognize equal dignity to persons who belong to a human group that has historically been oppressed and discriminated against.

During the proceeding, 91 briefs with observations were submitted by States, state agencies, national and international organizations, academic institutions, non-governmental organizations, and members of civil society. The briefs can be found [here](#).

On May 16 and 17, 2017, a public hearing was held during the 118<sup>th</sup> Regular Session of the Court in San José, Costa Rica. The Court received the oral observations of 40 delegations of States, members of civil society, universities, and private individuals. The video of the hearing is available [here](#). The Advisory Opinion can be found [here](#).

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## Requests being examined

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### Request presented by Ecuador

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On August 18, 2016, the State of Ecuador submitted to the Inter-American Court a request for an advisory opinion on "the institution of asylum in its different forms and the legality of its

recognition as a human right of every individual based on the principle of equality and non-discrimination.”

In the context of the proceeding, the Court received 55 briefs presented by other States, international organizations, inter-governmental and state agencies, national and international associations, non-governmental organizations, academic institutions, and members of civil society. The briefs can be found [here](#).

On August 24, a public hearing took place during the Court's 119th Regular Session held at its seat, where the Court received the oral observations of 26 delegations of States, members of civil society, universities, and private individuals. The video of the hearing is available [here](#).

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

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### Request presented by the Inter-American Commission

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On October 13, 2017, the Inter-American Commission on Human Rights presented a request for an advisory opinion to obtain an interpretation by the Inter-American Court that would clarify the way in which the American Convention on Human Rights and the series of rights that it protects, as well as the Charter of the Organization of American States and the American Declaration of the Rights and Duties of Man, read together with the Inter-American Democratic Charter, offer the necessary balance between the principle of the separation of powers and the full exercise of the rights that it protects in favor of a person subject to impeachment. The Commission requested the Court to make an express ruling on “the implications of the guarantees of due process and of the principle of legality in the context of the impeachment of democratically and constitutionally elected Presidents.”

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

Under Article 73(3) of the Rules of Procedure of the Inter-American Court, all those interested were invited to submit their written opinion on the points submitted to consultation. The time frame expires on February 26, 2018.

## VIII. Developments in the Court's jurisprudence

This section highlights some of the innovative developments in the Court's jurisprudence during 2017, as well as some of the criteria that reaffirms the jurisprudence already established by the Court. This evolution of jurisprudence establishes important standards for domestic judicial organs and officials when they carry out the control of conventionality within their respective spheres of competence.

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

### Enforced disappearance as a multiple and permanent violation of human rights and its elements

The Court reiterated its constant jurisprudence that enforced disappearance constitutes a gross violation of human rights, given the particular significance of the violations involved and the nature of the rights violated. It should be underscored that, in its consistent case law, the Court has established that the enforced disappearance of persons is a permanent crime that violates multiple norms and this is revealed by the definition in Article II of the Inter-American Convention on Forced Disappearance of Persons, the preparatory work for this convention, its preamble and its provisions, and also by other definitions contained in different international instruments.<sup>77</sup>

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<sup>77</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 149

The Court also reiterated that the concurrent and constituent elements of enforced disappearance are: (a) the deprivation of liberty; (b) the direct intervention of state agents or persons or groups of persons who act with the authorization, support or acquiescence of the State, and (c) the refusal to recognize the detention and to reveal the fate or the whereabouts of the person concerned. Indeed, the Court has indicated that the act of disappearance and its execution starts with the person's deprivation of liberty and the subsequent lack of information about their fate, and remains while the disappeared person's whereabouts are unknown, or until their remains have been identified with certainty.<sup>78</sup>

## Enforced disappearance in the context of an armed conflict

Additional Protocol (I) to the Geneva Conventions establishes a general obligation to protect the civilian population, while Geneva Convention IV establishes that "[A]ll protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State." It also establishes that "[p]rotected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated." In addition, Geneva Convention IV includes as grave breaches, "wilful killing, torture or inhuman treatment, [...] wilfully causing great suffering or serious injury to body or health, [...] and] unlawful confinement" of a person protected by the Convention.<sup>79</sup>

The Court observed that the Geneva Conventions and Addition Protocol (I) do not include an express prohibition of enforced disappearance. However, this prohibition has been considered part of customary international humanitarian law. Indeed, the study made by the International Committee of the Red Cross (ICRC) compiling customary humanitarian law indicated that:

"[E]nforced disappearance violates, or threatens to violate, a range of customary rules of international humanitarian law, most notably the prohibition of arbitrary deprivation of liberty (see Rule 99), the prohibition of torture and other cruel or inhuman treatment (see Rule 90) and the prohibition of murder (see Rule 89). In addition, in international armed conflicts, the extensive requirements concerning registration, visits and transmission of information with respect to persons deprived of their liberty are aimed, *inter alia*, at preventing enforced disappearances."<sup>80</sup>

In addition, Additional Protocol (I) includes "the right of families to know the fate of their relatives." In this regard, it establishes the obligation that "[a]s soon as circumstances permit, and

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<sup>78</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 150.

<sup>79</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 107.

<sup>80</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 108.

at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by an adverse Party. Such adverse Party shall transmit all relevant information concerning such persons in order to facilitate such searches." Also, there is an obligation to respect the remains of persons who have died and "to facilitate access to the gravesites by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access."<sup>81</sup>

Furthermore, in cases in which there is no direct evidence of the disappearance, the Court has emphasized that it is legitimate to use circumstantial evidence, indications and presumptions as grounds for a judgment, provided that consistent conclusions regarding the facts can be inferred from them. It has also established that there is no impediment to using circumstantial evidence to prove the existence of any of the elements of the enforced disappearance, including the deprivation of liberty. In addition, circumstantial or presumptive evidence is particularly important in the case of reports of enforced disappearance because this type of violation is characterized by the effort to eliminate any element that would prove the detention, fate and whereabouts of the victims.<sup>82</sup>

The Court has already considered that, when an enforced disappearance has occurred, it must be treated as an unlawful act that may result in punishment of the perpetrator, the instigator, the accomplice and anyone else who has participated in its perpetration.<sup>83</sup>

In addition, the Court recalled that there are times when the enforced disappearance of persons occurs in the context of an international armed conflict. In such cases, the obligation to investigate the violations of the rules of international humanitarian law are reinforced by article 146 of Geneva Convention IV relative to the protection of civilian persons in time of war, according to which States have the obligation to bring before the courts those responsible for grave breaches of this instrument; that is, violations of international humanitarian law, both customary and conventional, and enforced disappearance which, owing to its multiple and complex nature, includes arbitrary deprivation of liberty, torture and other cruel or inhuman treatment, and murder.<sup>84</sup>

## Right to property and inviolability of the home

In its jurisprudence, the Court has developed a wide-ranging concept of property, covering the use and enjoyment of "property," defined as material possessions that can be acquired, as well as any entitlement that may form part of a person's patrimony. This concept includes movables and immovables, tangible and intangible assets, and any other immaterial object that may have a

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<sup>81</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 109.

<sup>82</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 110.

<sup>83</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 142.

<sup>84</sup> IACourtHR. Case of Vásquez Durand *et al.* v. Ecuador. Preliminary objections, merits, reparations and costs. Judgment of February 15, 2017. Series C No. 332, para. 143.

value.<sup>85</sup> In addition the Court has found that it should be understood that the circumstances in which the facts of the case took place, and the socio-economic condition and vulnerability of the victims, may signify that the damage caused to their property would be greater and have a more significant effect than if it had occurred to other persons or groups in different conditions. Thus, State must bear in mind that groups of persons living in adverse circumstances and with less resources, such as those living in poverty, suffer increased effects on their rights precisely due to their situation of greater vulnerability.<sup>86</sup>

The Court has also considered that the destruction of the homes of villagers living in rudimentary conditions, in addition to representing a major financial loss, results in a loss of their basic living conditions, which makes the violation of the right to property especially severe. Consequently, the Court considered it necessary to make some additional clarifications on the inviolability of the home and privacy, from the perspective of Article 11(2) of the Convention and on the right to housing, the latter bearing in mind that, although any home may be protected by the right to property, not all property is necessarily a home.<sup>87</sup>

In other cases, the Court has considered that the sphere of privacy is characterized by being exempt and immune from abusive or arbitrary attacks or invasion by third parties or by public authorities. In this regard, the domicile becomes a space in which private life can be developed freely.<sup>88</sup> Thus, in similar circumstances, the Court has considered that the unlawful intrusion into a home by members of the armed forces constitutes an abusive and arbitrary interference in the private life and home of the persons affected.<sup>89</sup>

## Freedom of expression in the workplace

The Court's jurisprudence has provided the right to freedom of thought and expression recognized in Article 13 of the Convention with a wide-ranging content. The Court has indicated that this norm protects the right to seek, receive and disseminate ideas and information of any kind, as well as to obtain and receive the information and ideas disseminated by others. It has also indicated that freedom of expression has both an individual and a social dimension, and from this it has extrapolated a series of rights that are protected by this article. The Court has asserted that the two dimensions are equally important and must be guaranteed absolutely and simultaneously in order to give full effect to the right to freedom of expression in the terms of Article 13 of the Convention. For the ordinary citizen, knowing the opinion of others or the information possessed by others is as important as the right to disseminate his or her own opinion or information. Consequently, in light of the two dimensions, freedom of expression requires, on the one hand, that no one may be arbitrarily hindered or prevented from expressing his or her own opinion and,

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<sup>85</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 24.

<sup>86</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 39.

<sup>87</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 241.

<sup>88</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 242.

<sup>89</sup> IACourtHR. Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 341, para. 243.

thus, represents a right of each individual; while, on the other hand, it also signifies a collective right to receive any kind of information and learn about the opinions of others.<sup>90</sup>

The American Convention guarantees everyone's right to freedom of expression, regardless of any other consideration, so that it cannot be restricted to a specific profession or group of persons. Thus, the Court has maintained that freedom of expression is essential for the formation of public opinion in a democratic society. "It is also a condition *sine qua non* to enable [...] labor unions [...] and, in general, those who wish to have an influence over the collectivity to develop their full potential."<sup>91</sup>

Consequently, freedom of expression is necessary for the work of labor unions, to protect labor rights and to further legitimate interests and improve conditions, because, without this right, such organizations would be ineffective and devoid of purpose.<sup>92</sup>

The Court has also established that the obligation to ensure the rights recognized in the Convention presupposes positive obligations for the State to protect rights, even in the private sphere. Thus, the competent administrative or judicial authorities have the obligation to monitor whether acts or decisions in the private sphere have consequences on fundamental rights, and whether they are in conformity with domestic law and the State's international obligations. To the contrary, the State must remedy the violation of these rights and protect them adequately.<sup>93</sup>

In this regard, the Court has recognized that "in the broad terms of the American Convention, freedom of expression may also be affected without the direct intervention of state actions." In the case of freedom of expression, its real and effective exercise does not depend merely on the State's obligation to abstain from any interference, but may call for positive measures of protection, including in the relationships between individuals. Indeed, in certain cases, the State has the positive obligation to protect the right to freedom of expression, even from attacks by private individuals.<sup>94</sup>

Accordingly, in the workplace, the State's responsibility may arise in the situation in which domestic law, as interpreted in final instance by the domestic jurisdictional organ, has ratified a violation of the right of the appellant, so that, ultimately, the punishment decided in a ruling of the domestic court could result in an internationally wrongful act.<sup>95</sup>

The Court has therefore reaffirmed that the sphere of protection of the right to freedom of thought and expression is particularly applicable to workplace contexts such as that of a labor union, and in such contexts the State must not only respect this right, but also guarantee it, so that the workers or their representatives may exercise it. Thus, should there be a general or public

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<sup>90</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 89.

<sup>91</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 90.

<sup>92</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 91.

<sup>93</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 92.

<sup>94</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 93.

<sup>95</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 94.

interest involved, a higher degree of protection of freedom of expression is required; particularly with regard to those who have a mandate to represent others.<sup>96</sup>

## Application of the analysis of need and reasonableness of restriction to freedom of expression in the workplace

The Court has repeatedly indicated that freedom of expression is not an absolute right. Article 13(2) of the Convention, which prohibits prior censorship, also establishes the possibility of the subsequent imposition of liability for the abusive exercise of this right, including to ensure “respect for the rights or reputations of others” (subparagraph (a) of Article 13(2)). These restrictions are of an exceptional nature and should not limit, beyond strictly necessary, the full exercise of freedom of expression and become a direct or indirect means of prior censorship. Thus, the Court has established that liability may be imposed subsequently if the right to honor and reputation may have been affected.

Article 11 of the Convention establishes that everyone has the right to the protection of his honor and recognition of his dignity. The Court has indicated that the right to honor “recognizes that everyone has the right to have their honor respected, prohibits any unlawful attack on honor and reputation, and imposes on States the obligation to provide the protection of the law against such attacks. In general. The Court has indicated that the right to honor relates to self-esteem and self-worth, while the right to reputation relate to the opinion that others have of a person.”

In this regard, the Court has maintained that, “both freedom of expression and the right to honor, rights protected by the Convention, are extremely important, thus the two rights must be guaranteed, so that they may coexist harmoniously.” Each basic right must be exercised respecting and safeguarding the other basic rights. Consequently, the Court has indicated that “any conflict between the two rights requires that they be weighed and, to this end, each case must be examined taking into account its characteristics and circumstances in order to assess the existence and intensity of the elements on which the said opinion is based.”

## The right to security of employment as a right protected by the American Convention

The Court has repeatedly maintained the interdependence and indivisibility of civil and political rights and economic, social and cultural rights, because they should all be understood integrally as human rights, without any hierarchy among them, and be enforceable in all cases before the competent authorities.<sup>97</sup>

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<sup>96</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 96.

<sup>97</sup> IACourtHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 141.

As indicated in the case of *Acevedo Buendía et al. v. Peru*, the Court has the authority to decide any dispute concerning its jurisdiction. Thus, the Court has previously asserted that the broad terms in which the Convention was drafted signify that the Court exercises full jurisdiction over all its articles and provisions. It should also be noted that although Article 26 appears in Chapter III of the Convention, entitled "Economic, Social and Cultural Rights," it is also located in Part I of this instrument, entitled "State Obligations and Rights Protected" and, consequently, it is subject to the general obligations contained in Articles 1(1) and 2 in Chapter I (entitled "General Obligations"), as also are Articles 3 to 25 that appear in Chapter II (entitled "Civil and Political Rights").<sup>98</sup>

Regarding the specific labor rights protected by Article 26 of the American Convention, the Court observed that the wording indicates that these are right derived from the economic, social, educational, scientific, and cultural standards set forth in the OAS Charter. In this regard, Articles 45(b) and (c), 46 and 34(g) of the Charter establish that "[w]ork is a right and a social duty," and that this should be performed with "fair wages, employment opportunities, and acceptable working conditions for all." They also establish the right of workers to "associate themselves freely for the defense and promotion of their interests." In addition, they indicate that State must "harmonize the social legislation" for the protection of such rights. In its Advisory Opinion OC-10/89, the Court indicated that:

[...] the member states of the Organization have signaled their agreement that the Declaration contains and defines the fundamental human rights referred to in the Charter. Thus, the Charter of the Organization cannot be interpreted and applied as far as human rights are concerned without relating its norms, consistent with the practice of the organs of the OAS, to the corresponding provisions of the Declaration.<sup>99</sup>

In this regard, Article XIV of the American Declaration stipulates that: "[e]very person has the right to work, under proper conditions, and to follow his vocation freely." This provision is relevant to define the scope of Article 26, because "the American Declaration constitutes, as applicable and in relation to the OAS Charter, a source of international obligations." Furthermore, Article 29(d) of the American Convention expressly establishes that "no provisions of this Convention shall be interpreted as: [...] (d) excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature have."<sup>100</sup>

In addition to the derivation of the right to work based on an interpretation of Article 26 in relation to the OAS Charter, together with the American Declaration, the right to work is

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<sup>98</sup> IACourtHR. Case of *Lagos del Campo v. Peru*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 142.

<sup>99</sup> IACourtHR. Case of *Lagos del Campo v. Peru*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 143.

<sup>100</sup> IACourtHR. Case of *Lagos del Campo v. Peru*. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 144.

explicitly recognized in different domestic laws of the States in the region, as well as in a vast international *corpus iuris*; *inter alia*: article 6 of the International Covenant on Economic, Social and Cultural Rights; article 23 of the Universal Declaration of Human Rights; articles 7 and 8 of the Social Charter of the Americas; articles 6 and 7 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; article 11 of the Convention on the Elimination of All Forms of Discrimination against Women; article 32(1) of the Convention on the Rights of the Child; article 1 of the European Social Charter, and article 15 of the African Charter on Human and Peoples' Rights.<sup>101</sup>

Consequently, when analyzing the meaning and scope of Article 26 of the Convention in cases related to this issue, the Court has indicated that, in light of the general rules of interpretation established in Article 29(b), (c) and (d) of this instrument, it will take into account the aforementioned protection of stability of employment as applicable to the specific case.<sup>102</sup>

In this regard, the Committee on Economic, Social and Cultural Rights, in its General Comment No. 18 on the right to work, indicated that this included "the right not to be deprived of work unfairly." It has also indicated that "[v]iolations of the obligation to protect follow from the failure of States parties to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to work by third parties," which include "failure to protect workers against unlawful dismissal."<sup>103</sup>

For example, Convention 158 of the International Labour Organization (ILO) on termination of employment (1982), establishes that the right to work includes the lawfulness of termination in its article 4 but stipulates, in particular, the need to provide "a valid reason for such termination" as well as the right to effective legal remedies in case of an unjustifiable termination. Likewise, ILO Recommendation No. 143 on workers' representatives requires that appropriate measures be taken and resources made available for the protection of the workers' representatives.<sup>104</sup>

In correlation to the above, it can be understood that, in the private sphere, the state obligation to protect the right to stability of employment results, in principle, in the following duties: (a) to adopt the appropriate measures for the due regulation and monitoring of this right; (b) to protect the workers, through its competent organs, against unjustified dismissal; (c) in case of unjustified dismissal, to rectify the situation (either by reinstatement or, if appropriate, by compensation and other social benefits established in domestic law). Consequently, (d) the State should provide effective grievance mechanisms in cases of unjustified dismissal, to ensure access to justice and the effective judicial protection of such rights.<sup>105</sup>

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<sup>101</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 145.

<sup>102</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 146.

<sup>103</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 147.

<sup>104</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 148.

<sup>105</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs.

It should be noted that stability of employment does not consist in an unrestricted permanence in the post; but rather, to respect this right, among other measures, by granting due guarantees of protection to the worker so that, if he or she is dismissed this is with justification, which means that the employer must provide sufficient reasons to impose this sanction with the due guarantees, and that the worker may appeal this decision before the domestic authorities, who must verify that the justification given is not arbitrary or unlawful.<sup>106</sup>

## The breadth of the right to labor-related association is not restricted to union activities

Article 16(1) of the American Convention on Human Rights recognizes the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes. The right to freedom of association is characterized by enabling individuals to create or take part in entities or organizations in order to act collectively to achieve very diverse objectives, provided these are legitimate. The Court has established that those persons who are subject to the jurisdiction of the States Parties have the right to associate freely with others, without the intervention of the public authorities limiting or obstructing the exercise of the said right. This signifies that they have the right to associate in order to seek the common attainment of a lawful goal, and the correlative negative obligation of the State not to exert pressure or interfere so as to change or denature this goal. Additionally, the Court has observed that positive obligations also arise from freedom of association; these are to prevent attacks against this right, protect those who exercise it, and investigate any violations against it. These positive obligations must be met even in the sphere of relations between private individuals, if appropriate.<sup>107</sup>

In labor matters, the Court has established that freedom of association protects the faculty to constitute labor unions and implement their internal structure, activities and programs of action, without the intervention of the public authorities limiting or hindering the exercise of this right. In addition, this freedom supposes that each individual may determine, without any coercion whatsoever, whether he or she wishes to form part of the association. In addition, the State has the obligation to guarantee that everyone can exercise freely their freedom to form labor unions without fear that they will be subject to any kind of violence because, to the contrary, the ability of groups of people to organize themselves to protect their interests could be reduced. In this regard, the Court has stressed that freedom of association in labor matters "is not exhausted with the theoretical recognition of the right to form (unions), but also includes, inseparably, the right to exercise this freedom."<sup>108</sup>

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Judgment of August 31, 2017. Series C No. 340, para. 149.

<sup>106</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 150.

<sup>107</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 155.

<sup>108</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 156.

In this regard, the Court finds that the sphere of protection of the right to freedom of association in labor matters is not only subsumed in the protection of labor unions, their members and their representatives. Indeed, the unions and their representatives enjoy specific protection for the proper performance of their functions because, as the Court has established in its case law and as can be observed in different international instruments, including Article 8 of the Protocol of San Salvador, freedom of association in union matters is extremely important to defend the legitimate interests of the workers and is included in the human rights *corpus juris*. Moreover, the importance that States have recognized to union rights is reflected in the fact that Article 19 of the Protocol of San Salvador gives the Court competence to rule on violations of the state obligation to allow labor unions, federations and confederations to function freely.<sup>109</sup>

However, the protection recognized to the right to freedom of association in labor matters extends to organizations that, even though their nature differs from that of the labor unions, seek to represent the legitimate interests of workers. This protection is derived from Article 16 of the American Convention, which protects freedom of association for any purpose, as well as from other international instruments that recognize special protection to freedom of association to protect the interests of workers, without specifying that this protection is restricted to the labor union sphere. Thus Article 26 of the American Convention, which relates to the economic, social, educational, scientific and cultural standards set forth in the Charter of the Organization of American States, recognizes the right of employers and workers to associate freely for the defense and promotion of their interests. Additionally, the Preamble to the Inter-American Democratic Charter recognizes that the right of workers to associate themselves freely for the defense and promotion of their interests is fundamental to the fulfillment of democratic ideals.<sup>110</sup>

These principles coincide with the protection recognized by the ILO, which has clarified that the expression "workers' representatives" includes those recognized as such under domestic law or practice, whether union representatives or "elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with the provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned."<sup>111</sup>

Similarly, it has been interpreted that the representatives of the workers of an undertaking should enjoy effective protection against any act that could prejudice them, including dismissal based on their condition as representatives of the workers, or on their activities arising from this representation. Also, the national authorities must ensure that disproportionate penalties do not dissuade the representatives from seeking to express and defend the workers' interests.<sup>112</sup>

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<sup>109</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 157.

<sup>110</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 158.

<sup>111</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 159

<sup>112</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 160.

In addition, the Court has established that freedom of association has two dimensions, because it relates both to the right of the individual to associate freely and use the appropriate means to exercise this freedom, and to the right of the members of a group to achieve certain objectives together and to benefit from them. The Court has also established that the rights derived from representing the interests of a group are twofold, because they relate both to the right of the individual who exercises the mandate or appointment, and the right of the collectivity to be represented, so that the violation of the right of the former (the representative) results in the violation of the right of the latter (the person or collectivity represented).<sup>113</sup>

## The rights to life and to personal integrity in the military context

The Court has already indicated that full-time members of the armed forces on active service face a special situation of subjection, which imposes on the State the obligation to act with special care because it finds itself in a position of guarantor and custodian of the individuals subject to this regime, without any type of distinction based on the way they have incorporated the armed forces, or on their rank within this hierarchical structure.<sup>114</sup>

Although military activities entail a certain danger owing to the nature of their functions, the State is obliged to protect the life and personal integrity of the members of the armed forces during all aspects of military life, including training to face war or conflict, and maintenance of military discipline. In this regard, the Court considered that the State had the duty to adopt different preventive measures, including those of an administrative or legislative nature, to reduce the level of risk faced by the members of the armed forces during military service.<sup>115</sup>

Accordingly, the Court has interpreted that, regarding such persons who are in a special situation of subjection, the State has the obligation to: (i) safeguard the health and welfare of soldiers in active service; (ii) guarantee that ways and means of training do not exceed the inevitable level of suffering inherent in this situation, and (iii) provide a satisfactory and convincing explanation about problems related to the health and life of those who are in a special situation of subjection in the military sphere, either because they have enlisted voluntarily or have been obliged to do so, or have incorporated the armed forces as cadets or with a rank in the military hierarchy. Consequently, the State can be considered responsible for harm to the personal integrity and life of a person who has been under the authority and control of state officials, such as members of the military academy.<sup>116</sup>

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<sup>113</sup> IACourTHR. Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs. Judgment of August 31, 2017. Series C No. 340, para. 162.

<sup>114</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 105.

<sup>115</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 106.

<sup>116</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of

## Obligation to investigate a violent or suspicious death of a person in custody or in a special situation of subjection

The Court has established as a particularly relevant obligation and an element to guarantee the right to life that, when the State becomes aware of the violent or suspicious death of a person in its custody or in a special situation of subjection, it is obliged to open *ex officio* and immediately, a serious, independent impartial and effective investigation in order to provide a satisfactory explanation of what happened and thus, disprove its responsibility. Thus, the Court has indicated that, in situations of violent or suspicious death, the rights affected correspond to the deceased victims' next of kin, who are the interested party in the search for justice and to whom the State should provide effective remedies to ensure them access to justice, an investigation, and the eventual punishment, as appropriate, of those responsible, as well as integral reparation of the consequences of the violations.<sup>117</sup>

This investigation should be conducted using all available legal means and be directed at determining the truth and the pursuit, capture, prosecution and punishment of all the masterminds and perpetrators of the facts. However, this is an obligation of means and not of results, which must be assumed by the State as its own legal duty and not as a simple formality preordained to be ineffective, or as a simple measure taken by private interests that depends on the procedural initiative of the victims and their family members, or on the contribution of evidence by private individuals.<sup>118</sup>

In addition, the Court has indicated that "the right to effective judicial protection requires judges to direct the proceedings so as to avoid undue delays and obstructions leading to impunity, thus thwarting the due judicial protection of human rights," and that "judges, as leaders of the proceedings, have the duty to direct and channel the judicial proceedings in order not to sacrifice justice and due process of law to formalism and impunity" because, to the contrary, "this leads to the violation of the State's international obligation to protect human rights and to prevent their violation and breaches the right of the victim and his next of kin to know the truth of what occurred, that those responsible are identified and punished, and to obtain the consequent reparations."<sup>119</sup>

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August 22, 2017. Series C No. 338, para. 107.

<sup>117</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 143.

<sup>118</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 144.

<sup>119</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 145.

## Incompetence of the military jurisdiction to prosecute human rights violations

The Court reiterated its consistent case law on the limits established on the competence of the military jurisdiction to hear facts that constitute violations of human rights, and thus affirmed that, under the democratic rule of law, the military criminal jurisdiction must have a restrictive and exceptional scope and focus on the protection of special legal interests related to the functions of the military forces. Therefore, the Court has indicated that the military jurisdiction should only prosecute soldiers on active service for the perpetration of crimes or misdemeanors that, by their nature, infringe legal rights inherent in the military sphere. Consequently, its application is reserved to soldiers who have committed a crime or misdemeanor in the exercise of their functions and in certain circumstances. Accordingly, taking into account the nature of the crime and the legal right impaired, the military criminal jurisdiction is not competent to investigate and, if appropriate, prosecute and punish the authors of human rights violations; rather the prosecution of those responsible will always correspond to ordinary justice.<sup>120</sup>

The fact that the subjects involved belong to the armed forces or that the events occurred during a military activity in a military establishment does not mean *per se* that military justice should intervene. This is true even in the case of offenses in which the accused is a member of the armed forces and the passive subject of the offense or holder of the protected right is not a civilian, because all human rights violations should be tried in the ordinary jurisdiction, and this includes those committed by soldiers against soldiers.<sup>121</sup>

## Standards for the independence of the investigating agency in the case of deaths resulting from a police intervention

The Court has established that, depending on the circumstances of the case, it may need to analyze the procedures that constitute the grounds for judicial proceedings, particularly the investigation, the results of which lead to the opening and progress of such proceedings.<sup>122</sup>

All the requirements of due process established in Article 8(1) of the Convention, as well as criteria of independence and impartiality, extend to the non-judicial organs responsible for conducting

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<sup>120</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 148.

<sup>121</sup> IACourTHR. Case of Ortiz Hernández *et al.* v. Venezuela. Merits, reparations and costs. Judgment of August 22, 2017. Series C No. 338, para. 149.

<sup>122</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 184.

the investigation prior to the judicial proceedings, in order to determine the circumstances of a death and the existence of sufficient evidence to file a criminal action. If these requirements are not met, the State would be unable to exercise its prosecutorial powers effectively and efficiently and the courts could not hold the judicial proceedings required by this type of violation.<sup>123</sup>

In this regard, the Court considers that the essential element of a criminal investigation into a death resulting from a police intervention is the guarantee that the investigating agency be independent of the official involved in the incident. That independence entails the absence of any institutional or hierarchical relationship, as well as independence in the practice. Thus, in cases of presumed serious crimes in which it appears "prima facie" that police agents are possibly involved, the investigation must be executed by an independent agency, other than the police force involved in the incident, such as a judicial authority or the Public Prosecution Service, assisted by police agents, criminalistics and administrative experts who are not members of the security force to which the potential suspect belongs.<sup>124</sup>

The European Court of Human Rights has established various circumstances in which the independence of the investigators can be affected in the case of a death resulting from a state intervention. Among these, the Inter-American Court underscored circumstances in which: (i) the investigators were potential suspects; (ii) they were colleagues of the persons subject to investigation; (iii) they were in a hierarchical relationship with the potential suspect, or (iv) the specific conduct of the investigative bodies indicated a lack of independence, such as the failure to carry out certain measures that were called for in order to elucidate the case and, if appropriate, punish those responsible; (v) when excessive weight was given to the suspects' statements; (vi) the failure to explore certain lines of inquiry which were clearly required, or (vii) excessive inertia.<sup>125</sup>

This does not "require that the bodies responsible for the investigation enjoy absolute independence; but rather that they are sufficiently independent of the persons or structures whose responsibility is likely to be engaged" in the specific case. The adequacy of the degree of independence is assessed in the light of all the circumstances of the case.<sup>126</sup>

Where the independence or the impartiality of the investigative body is open to question, such a situation will call for a stricter scrutiny on the part of the Court of whether the investigation has been carried out in an independent and impartial manner. Also, the Court must examine whether and to what extent the alleged lack of independence and impartiality has compromised the investigation's effectiveness to determine what happened and to punish those responsible.

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<sup>123</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 185.

<sup>124</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 187.

<sup>125</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 188.

<sup>126</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 189.

Several essential and interrelated parameters must be complied with to establish the effectiveness of the investigation in such cases: (i) the adequacy of the investigative measures; (ii) the promptness of the investigation (iii) the involvement of the deceased person's family, and (iv) the independence of the investigation. Also, in cases of deaths caused by the intervention of a police agent, in order to be effective, the investigation must be able to reveal whether or not the use of force was justified based on the circumstances. In this type of case, the domestic authorities must make a particularly rigorous scrutiny of the investigation.<sup>127</sup>

Lastly, regarding the intervention of the bodies that supervise the investigation or the Judiciary, it should be pointed out that, at times, the defects in the investigation can be rectified, but in other cases this is not possible owing to the status of the investigation and the magnitude of the errors made by the investigative body.<sup>128</sup>

## Due diligence and reasonable time in cases of alleged sexual violence

With regard to cases of sexual violence against women, the Court has established that States must take comprehensive measures to comply with due diligence. In particular, they should have a legal protection framework that is applied effectively and prevention policies and practices that allow them to act effectively following the corresponding reports. The prevention strategy should be comprehensive; that is, it should prevent the risk factors while strengthening the institutions so that the latter can provide an effective response. In addition, States should adopt preventive measures in specific cases in which it is clear that certain women and girl children may be victims of violence. The foregoing should take into account that, in cases of violence against women, States also have the general obligations established in Articles 8 and 25 of the American Convention, and specific obligations arising from the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).<sup>129</sup>

Article 7(b) of that Convention specifically obliges the States Parties to apply due diligence to prevent, investigate and impose penalties for violence against women. Thus, when faced with an act of violence against a woman, it is particularly important that the authorities in charge of the investigation conduct it with determination and effectiveness, taking into account society's obligation to reject violence against women and the State's obligation to eradicate this and to ensure that the victims trust the state institutes responsible for their protection. The Court pointed out that violence against women is not only a violation of human rights, but also "an offense against human dignity and a manifestation of the historically unequal relations of power

<sup>127</sup> IACourtHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 190.

<sup>128</sup> IACourtHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 191.

<sup>129</sup> IACourtHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 243.

between women and men" that "pervades every sector of society regardless of class, race or ethnic group, income, culture, level of education, age or religion and strikes at its very foundations."<sup>130</sup>

In line with international jurisprudence and taking into account the provisions of the Convention of Belém do Pará, the Court has considered that sexual violence consists of actions of a sexual nature committed against a person without their consent that include the physical invasion of the body, but also include acts that do not involve penetration or even any physical contact.<sup>131</sup>

In addition, in keeping with the current legal and judicial criteria in the sphere of international criminal law and comparative criminal law, the Court has considered that rape does not necessarily involve non-consensual vaginal sexual relations, as traditionally considered. Rape should also be understood to include acts of vaginal or anal penetration, without the victim's consent, using other parts of the offender's body or objects, as well as oral penetration by the male member. In particular, rape constitutes a paradigmatic form of violence against women, the consequences of which go beyond the victim.<sup>132</sup>

The Court has established that rape is a particular type of aggression that, in general, is characterized by occurring in the absence of persons other than the victim and the offender or offenders. Given the nature of this form of violence, the existence of photographic or documentary evidence cannot be expected and, therefore, the victim's statement constitutes essential evidence of the fact. Regardless of the legal classification of the facts that correspond to each specific case, the Court considered that this standard was applicable to sexual violence in general. In addition, when analyzing the testimony, it is necessary to consider that victims frequently do not report this type of offense, owing to the stigma attached to it.<sup>133</sup>

Also, it should be pointed out that the absence of physical signs does not mean that ill-treatment has not occurred, because such acts of violence against women frequently do not leave permanent scars or marks. The same is true for cases of sexual violence and rape in which a medical examination does not necessarily reveal that they have taken place.<sup>134</sup>

Furthermore, the Court has indicated that the violation of the right to physical and mental integrity has different degrees ranging from torture to other forms of ill-treatment or cruel, inhuman or degrading treatment, and the physical and mental aftereffects vary in intensity according to factors that are endogenous and exogenous to the victim (including duration of the

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<sup>130</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 245.

<sup>131</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 246.

<sup>132</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 247.

<sup>133</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 248.

<sup>134</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 249.

treatment, age, sex, health, context and vulnerability), which must be analyzed in each specific situation. In other words, the personal characteristics of a presumed victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether her personal integrity was violated, because those characteristics may change a person's perception of reality and, consequently, increase the suffering and feeling of humiliation on being subjected to certain treatments.<sup>135</sup>

The Court has indicated that the use of force that is not strictly necessary based on the behavior of a person detained constitutes an attack on human dignity, in violation of Article 5 of the American Convention.<sup>136</sup>

Furthermore, in numerous cases, the Court has determined that rape is a form of torture. Thus, the obligation to investigate is reinforced by the provisions of Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture which oblige the State "to take effective measures to prevent and punish torture within their jurisdiction," and also "to prevent and punish other cruel, inhuman or degrading treatment or punishment." Also, based on Article 8 of this Convention, "the States Parties guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of the case." Also, "when there is a report or justified reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed, *ex officio*, and immediately to conduct an investigation into the case and to initiate, when appropriate, the corresponding criminal proceedings."<sup>137</sup>

In this regard, it is essential that the State act with diligence to avoid acts of torture or cruel, inhuman or degrading treatment, bearing in mind that victims usually abstain from reporting the facts, out of fear, especially when they are deprived of liberty in the custody of the State. Thus, the judicial authorities have the obligation to ensure the rights of the person deprived of liberty, which entails obtaining and ensuring the safekeeping of any evidence that could prove the alleged acts of torture.<sup>138</sup>

In cases of violence against women, certain international instruments are useful for defining and providing content to the accentuated state obligation to investigate such cases with due diligence. Among other matters, a criminal investigation into sexual violence must ensure that: (i) the victim's statement is taken in a safe and comfortable environment that provides privacy and instills confidence; (ii) the victim's statement is recorded to avoid or limit the need for it to be repeated; (iii) the victim is provided with emergency medical and psychological care, and also

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<sup>135</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 250.

<sup>136</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 251-

<sup>137</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 252.

<sup>138</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 253.

continuing care if this is required with a care protocol aimed at reducing the consequences of the violation; (iv) a complete and detailed medical and psychological examination is performed immediately by suitable trained personnel, of the sex indicated by the victim insofar as possible, offering her the possibility of being accompanied by someone she trusts if she wishes; (v) the investigative actions are documented and coordinated, and evidence is handled diligently, taking sufficient samples, performing tests to determine the possible perpetrator of the act, ensuring the safekeeping of other evidence, such as the victim's clothing, investigating immediately the site of the facts, and ensuring the proper chain of custody, and (vi) the victim is provided with free legal assistance at all stages of the proceedings. Also, in cases of presumed acts of violence against women, the criminal investigation should include a gender perspective and be conducted by officials with training in similar cases and in attending to victims of gender-based violence and discrimination.<sup>139</sup>

## Environmental protection and human rights

The Court has recognized the existence of an irrefutable relationship between protection of the environment and the realization of other human rights, because environmental degradation affects the effective enjoyment of other human rights. In addition, it has emphasized the interdependence and indivisibility that exists between human rights, the environment and sustainable development, because the full enjoyment of all human rights depends on a favorable environment. Based on this close relationship, the Court noted that currently (i) numerous human rights protection systems recognize the right to a healthy environment as a right in itself, while there can be no doubt that (ii) numerous other human rights are vulnerable to degradation of the environment, all of which results in a series of environmental obligations for the States to ensure that they comply with their obligations to respect and ensure those rights.

Under the inter-American human rights system, the right to a healthy environment is recognized expressly in Article 11 of the Protocol of San Salvador:

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.

It should also be considered that this right is included among the economic, social and cultural rights protected by Article 26 of the American Convention.

The human right to a health environment is a right with both individual and collective connotations. In its collective dimension it constitutes a universal value owed to both present and future generations; while, owing to its individual dimension and its relationship to other rights,

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<sup>139</sup> IACourTHR. Case of Favela Nova Brasília v. Brazil. Preliminary objections, merits, reparations and costs. Judgment of February 16, 2017. Series C No. 333, para. 254.

such as the rights to health, life or personal integrity, its violation may have direct or indirect repercussions on the individual. Environmental degradation may cause irreparable damage to human beings; therefore, a healthy environment is a right that is essential for the existence of humankind.

That said, the right to a health environment as an autonomous right differs from the environmental content arising from the protection of other rights such as the right to life or the right to personal integrity. Indeed, some human rights are more susceptible to environmental degradation than others. The rights that are especially related to the environment have been classified in two groups: (i) the rights whose enjoyment is particularly vulnerable to degradation of the environment, also identified as substantive rights (for example, the rights to life, personal integrity, health or property), and (ii) the rights whose exercise supports a better formulation of environmental policies, also identified as procedural rights (such as the rights to freedom of expression and association, to information, to participation in decision-making and to an effective remedy).

The Court has ruled on the substantive and procedural obligations of States in relation to environmental protection that arise from the obligation to respect and ensure the right to life and personal integrity. However, based on the above considerations, the Court stressed how numerous other rights could be affected by failure to comply with the environmental obligations, including the economic, social, cultural and environmental rights protected by the Protocol of San Salvador, the American Convention, and other treaties and instruments, specifically the right to a healthy environment.

The term "jurisdiction" in Article 1(1) of the American Convention to determine state obligations in relation to environmental protection

The Court interpreted that, in its first question, Colombia was consulting the Court on the interpretation of the term "jurisdiction" in Article 1(1) of the American Convention, in the context of compliance with its obligations concerning the environment, particularly in relation to conducts committed outside the national territory of a State or with effects beyond the national territory of a State. In response to this question, the Court indicated that:

- a) The States Parties to the American Convention have the obligation to respect and ensure the rights recognized in this instrument to all persons subject to their jurisdiction.
- b) The exercise of jurisdiction by a State entails its responsibility for any conduct that may be attributed to it and that it is alleged violates the rights recognized in the American Convention.
- c) The jurisdiction of the States, in relation to the protection of human rights under the American Convention, is not limited to its territory. The term "jurisdiction" in the American Convention is more extensive than the territory of a State and includes situations beyond its territorial limits. States are obliged to respect and ensure the human rights of all persons subject to their jurisdiction, even if they are not within its territory.

- d) The exercise of jurisdiction under Article 1(1) of the American Convention outside the territory of a State is an exceptional situation that must be examined in each specific case and restrictively.
- e) The concept of jurisdiction under Article 1(1) of the American Convention encompasses any situation in which a State exercises effective authority or control over an individual or individuals, either within or outside its territory.
- f) States must ensure that their territory is not used in a way that may cause significant damage to the environment of other States or of areas beyond the limits of their territory. Consequently, States have the obligation to avoid transboundary damage.
- g) States are obliged to adopt all necessary measures to avoid activities carried out on their territory or under their control affecting the rights of individuals within or outside their territory.
- h) When transboundary damage occurs, a person is subject to the jurisdiction of the State of origin, if there is a causal connection between the incident that took place on its territory and the violation of the human rights of persons outside its territory. The exercise of jurisdiction arises when the State of origin exercises effective control of the activities that caused the damage and consequent violation of human rights.
- i) Obligations derived from the obligation to respect and ensure the rights to life and to personal integrity in the context of protection of the environment

Regarding state obligations related to the obligation to respect and ensure the rights to life and personal integrity in relation to damage to the environment, the Court interpreted that, to respect and ensure the rights to life and integrity:

- a. States are obliged to prevent significant environmental damage within and outside their territory.
- b. To comply with the obligation of prevention, States must regulate, supervise and monitor the activities under their jurisdiction that could cause significant damage to the environment; make environmental impact assessments when there is a risk of significant damage to the environment; prepare a contingency plan in order to have safety measures and procedure to minimize the possibility of major environmental disasters, and mitigate any significant environmental damage that has occurred, even when this happened despite preventive actions by the State.
- c. States must act in keeping with the precautionary principle to protect the right to life and to personal integrity in the event of possible severe and irreversible damage to the environment, even in the absence of scientific certainty.
- d. States are obliged to cooperate, in good faith, to protect against environmental damage.
- e. To comply with the obligation of cooperation, States must notify other States that could be affected when they become aware that an activity planned under their jurisdiction might generate a risk of significant transboundary damage and also in

- cases of environmental emergencies, and they must also consult and negotiate in good faith with the States potentially affected by significant transboundary damage.
- f. States have the obligation to ensure the right of access to information recognized in Article 13 of the Convention in relation to possible damage to the environment.
  - g. States have the obligation to ensure the right to public participation of the persons subject to their jurisdiction, as established in Article 23(1)(a) of the Convention, in decision-making and policies that may affect the environment.
  - h. States have the obligation to ensure access to justice in relation to the state obligation for the protection of the environment.

The above obligations were established in relation to the general obligation to respect and ensure the right to life and personal integrity, since those were the rights referred to by the State in its request for an advisory opinion. However, the Court noted that this did not mean that those obligations did not exist in the case of other rights that were particularly vulnerable to environmental degradation.

## Sexual orientation, gender identity and gender expression are categories protected by the American Convention

The Court reiterated that, pursuant to the general obligation to respect and ensure rights established in Article 1(1) of the American Convention, the interpretation criteria established in Article 29 of this Convention, the provisions of the Vienna Convention on the Law of Treaties, the Resolutions of the OAS General Assembly and the United Nations agencies, sexual orientation and gender identity, as well as gender expression, are categories protected by the Convention. Thus, the Convention prohibits any law, act or practice that discriminates based on an individual's sexual orientation, gender identity or gender expression. Consequently, no law, decision or practice of domestic law, either by the state authorities or by private individuals may reduce or restrict, in any way, the rights of individuals based on their sexual orientation, their gender identity and/or their gender expression.<sup>140</sup>

Thus, when interpreting the phrase "any other social condition" of Article 1(1) of the Convention, the most favorable alternative for the safeguard of the rights protected by the treaty must be chosen, pursuant to the *pro homine* principle. Likewise, the Court reiterated that the specific criteria based on which discrimination is prohibited under Article 1(1) of the American Convention are not inflexible or restrictive, but merely indicative. Therefore, the wording of this article leaves the criteria open with the inclusion of the words "any other social condition" to incorporate other categories that were not explicitly indicated. Consequently, the phrase "any other social condition" of Article 1(1) of the Convention must be interpreted by the Court in the perspective of the most favorable option for the individual and the evolution of the fundamental rights in contemporary international law.<sup>141</sup>

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<sup>140</sup> Cf. OC-24, para. 78.

<sup>141</sup> Cf. OC-24, para. 70.

With regard to gender expression, the Court has indicated that a person may be discriminated against on the grounds of the perception that others have of his or her relationship with a social sector or group, regardless of whether this corresponds to the reality or to the self-identification of the victim. The purpose or effect of discrimination based on perception is to prevent or annul the recognition, enjoyment or exercise of the human rights and fundamental freedoms of the person subjected to such discrimination, irrespective of whether that person self-identifies with a specific category. As with other forms of discrimination, the person is reduced to a single characteristic attributed to him or her, without taking other personal circumstances into account. Consequently, it can be considered that the prohibition to discriminate on the grounds of gender identity is understood not only with regard to the real or self-perceived identity, but should also be understood in relation to the identity perceived externally, regardless of whether or not that perception corresponds to the reality. Thus, it should be understood that any expression of gender constitutes a category protected by Article 1(1) of the American Convention.<sup>142</sup>

The Court considered that the criteria for determining whether there has been a violation of the principle of equality and non-discrimination in a specific case may have different degrees, depending on the reasons for a difference in treatment. In this regard, the Court found that, in the case of a measure that establishes a differentiated treatment involving one of these categories, a thorough examination must be made, incorporating especially rigorous elements in the analysis; in other words, the different treatment should constitute a necessary measure to achieve an objective that is imperative pursuant to the Convention. Thus, in this type of examination, in order to analyze the validity of the differentiating measure, the end pursued must not only be legitimate under the Convention, but also imperative. The measure chosen must not only be adequate and truly enabling, but also necessary; that is, it cannot be replaced by another less harmful measure. Also, the strict proportionality of the measure must be analyzed; thus, the benefits of adopting the measure in question must be clearly more advantageous than the restrictions it imposes on the treaty-based principles it affects.<sup>143</sup>

Furthermore, specifically regarding the scope of the right to non-discrimination on the grounds of sexual orientation, the Court indicated that this is not restricted to homosexuality in itself, but also includes its expression and the necessary consequences in the life project of the individual. In this regard, for example, sexual acts are a way of expressing a person's sexual orientation and are therefore protected under the same right to non-discrimination on the basis of sexual orientation.<sup>144</sup>

## Concepts of the right to identity and the right to gender identity

Regarding the right to identity, the Court has indicated that, in general, it may be conceived as the series of attributes and characteristics that individualize a person in society and that encompass several rights according to the subject of rights in question and the respective circumstances. The right to identity may be affected by numerous situations or contexts that may occur from childhood to adulthood. Even though the American Convention does not specifically

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<sup>142</sup> Cf. OC-24, para. 79

<sup>143</sup> Cf. OC-24, para. 81.

<sup>144</sup> Cf. OC-24, para. 82.

refer to the right to identity under this name, it does include other rights that are its components. Thus, the Court recalls that the American Convention protects those elements as rights in themselves; however, not all such elements will necessarily be involved in all cases that concern the right to identity. Moreover, the right to identity cannot be confused with, or reduced or subordinated to one of the rights that it includes, nor to the sum of them. For example, a name forms part of the right to identity, but it is not the only component. In addition, the Court has indicated that the right to identity is closely related to human dignity, the right to privacy and the principle of personal autonomy (Articles 7 and 11 of the American Convention).<sup>145</sup>

It can also be understood that this right is closely linked to the individual in his or her specific individuality and private life, supported by historical and biological experience and by the way in which this person relates to others, through developing relationships within the family and society.<sup>146</sup> This also means that the individual may experience the need to be recognized as someone who is distinct and distinguishable from others. To achieve this, the State and society must respect and ensure the individuality of each person, as well as the right to be treated in keeping with the essential aspects of their personality, with no other limitations than those imposed by the rights of other persons. Thus, guaranteeing the individuality of the person before the State and before society implies their legitimate authority to establish the exteriorization of their persona according to their most intimate convictions. Likewise, one of the essential components of any life plan and of the individualization of the person is precisely their gender and sexual identity.<sup>147</sup>

The Court added that the most relevant meaning and scope of the right to identity and, therefore, the right to a sexual and gender identity, are that it constitutes an autonomous right based on the provisions of international law and those derived from the cultural elements contemplated in the domestic law of the States, contributing thus to establish the specificity of the individual, with the rights that make him or her unique, singular and identifiable.<sup>148</sup>

Regarding gender and sexual identity, the Court reiterated that this is also linked to the concept of liberty and to the possibility of all human beings to self-determination and the free choice of the options and circumstances that give meaning to their existence, according to their own convictions, as well as the right to protection of their privacy. Thus, in the case of sexual identity, the Court has established that affective life with a spouse or permanent companion, which logically includes sexual relations, is one of the main aspects of this circle or sphere of intimacy, and this is also influenced by the sexual orientation of the individual, which will depend on their self-identification.

In this regard, the Court considered that recognition of gender identity is necessarily linked to the idea that sex and gender should be perceived as part of an identity construct that is the result of

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<sup>145</sup> Cf. OC-24, para. 90.

<sup>146</sup> Cf. OC-24, para. 91

<sup>147</sup> Cf. OC-24, para. 91

<sup>148</sup> Cf. OC-24, para. 92

the free and autonomous decision of each person, without this having to be subject to their genitalia.<sup>149</sup>

In this way, the sex, together with the socially constructed identities, attributes and roles that are ascribed to the biological differences determining the sex assigned at birth, far from constituting objective and unchangeable elements of the civil status that individualizes a person – as a physical or biological fact – are merely characteristics that depend on the subjective appreciation of the person concerned, and are based on a construct of self-perceived gender identity related to the free development of the personality, sexual self-determination, and the right to privacy. Consequently, the person who decides to assume this construct, is the holder of legally protected interests which cannot be subject to any restriction based merely on the fact that society as a whole does not share specific singular lifestyles,<sup>150</sup> due to fears, stereotypes, and social and moral prejudices with no reasonable basis. Thus, regarding the factors that define the sexual and gender identity of a person, precedence is given to the subjective factor over the physical or morphological features (objective factor). However, owing to the complex human nature that leads everyone to develop their own personality based on the particular way they see themselves, the psychosocial sex should be given pre-eminence over the morphological sex in order to fully respect the right to sexual and gender identity, since these are elements that, to a great extent, define both how individuals see themselves and how they project themselves in society.<sup>151</sup>

The Court also considered that the right to identity and, in particular, the manifestation of identity, is also protected by Article 13, which recognizes the right to freedom of expression. From this standpoint, arbitrarily interfering in the expression of the different attributes of the identity may signify a violation of that right.<sup>152</sup> The Court also indicated that failure to recognize gender or sexual identity could result in indirect censure of gender expressions that diverge from cisnormative or heteronormative standards, and this would send a general message that those persons who diverge from these “traditional” standards would not have the legal protection and recognition of their rights in equal conditions to persons who do not diverge from such standards.<sup>153</sup>

The Court understood that gender identity was a component of the identity of the individual; consequently, its recognition by the State was critical to ensuring that transgender persons can fully enjoy all human rights, including protection from violence, torture, ill-treatment, rights to health, education, employment, housing, access to social security, and freedom of expression and association.<sup>154</sup> In this regard, the Court indicated that “recognition of the identity of persons is one of the means through which observance of the rights to legal personhood, a name, a nationality, civil registration, and family relationships is facilitated, among other rights recognized

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<sup>149</sup> Cf. OC-24, para. 94.

<sup>150</sup> Cf. OC-24, para. 95.

<sup>151</sup> Cf. OC-24, para. 95.

<sup>152</sup> Cf. OC-24, para. 96.

<sup>153</sup> Cf. OC-24, para. 97.

<sup>154</sup> Cf. OC-24, para. 98.

in international instruments such as the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights.<sup>155</sup> Therefore, non-recognition of identity may mean that a person has no legal proof of his or her existence, which makes it difficult to exercise fully his or her rights.<sup>156</sup>

Similarly, the Court shares the opinion of the Inter-American Juridical Committee which has asserted that the right to identity "has an instrumental value for exercising certain civil, cultural, economic, political and social rights so that they fully prevail to reinforce democracy and the exercise of basic rights and liberties. Consequently, it is a means to exercise rights in a democratic society, committed to the effective practice of citizenship and the values of representative democracy, thereby facilitating social inclusion, citizen participation and equal opportunities."<sup>157</sup> Also, "depriving the right to identity, or a legal vacuum in the domestic law for its effective practice, places people in situations that hinder or prevent the enjoyment of or access to basic rights, thus creating differences in treatment and opportunities that affect the principles of equality before the law and non-discrimination, and obstructing the right of everyone to full recognition of their legal personality."<sup>158</sup>

Accordingly, the State, as guarantor of all rights, must respect and ensure the coexistence of individuals with distinct identities, gender expressions and sexual orientations and, therefore, must ensure that they are all able to live and develop with dignity and the respect to which everyone has a right. The Court considered that this protection does not refer merely to the content of those rights, but that, through them, the State would also be ensuring the full enjoyment and exercise of other rights of individuals whose gender identity differs from the one associated with the sex assigned to them at birth.<sup>159</sup>

## Elements of the juridical personality and the right to gender identity

Regarding gender and sexual identity, the foregoing means that individuals, with their diverse sexual orientations and gender identities and expressions, should be able to enjoy their legal capacity in all aspects of life. And this is because the sexual orientation or gender identity that each person defines for himself or herself is essential for their personality and constitutes one of the fundamental aspects of their self-determination, dignity and liberty. However, the right to juridical personality is not merely the capacity of the individual to enter the legal framework and hold rights and obligations, but also includes the possibility of all human beings, based on the mere fact of existing and irrespective of their condition, to possess certain attributes that

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<sup>155</sup> Cf. OC-24, para. 98.

<sup>156</sup> Cf. OC-24, para. 98.

<sup>157</sup> Cf. OC-24, para. 98.

<sup>158</sup> Cf. OC-24, para. 99.

<sup>159</sup> Cf. OC-24, para. 100.

constitute the essence of their juridical personality and individuality as subjects of law. Consequently, there is a close relationship between, on the one hand, the recognition of juridical personality and, on the other hand, the legal attributes inherent in all human beings that distinguish, identify and individualize them.<sup>160</sup>

Accordingly, it was the Court's opinion that the right of individuals to define, autonomously, their own sexual and gender identity is made effective by guaranteeing that such definitions accord with the identification date recorded in the different registers, and also in identity documents. This results in the existence of the right of all individuals to the personality attributes recorded in these registers and other identification documents coinciding with their own identity definition and, if this is not so, there should be a way of amending the records<sup>161</sup>.

The Court mentioned that the free development of the personality and the right to privacy involve recognition of the rights to personal, sexual and gender identity, because, it is on this basis that individuals see themselves and project themselves in society. A name, as an attribute of personality, represents an expression of individuality and its purpose is to affirm the identity of a person before society and in actions before the State. Its purpose is also to ensure that every individual has a unique sign that distinguishes him or her from everyone else, by which he or she can be identified and recognized. It is a basic right inherent in all persons based merely on their existence. In addition, the Court indicated that the right to a name recognized in Article 18 of the Convention and in various international instruments, constitutes a basic and essential element to identify each person, without which they cannot be recognized by society or registered by the State.<sup>162</sup>

The Court established that, as a result of the foregoing, States are obliged not only to protect the right to a name, but also to provide the means required to facilitate a person's registration.<sup>163</sup> This right means that the State must ensure that individuals are registered with the name chosen by them or their parents at the time they are registered, without any type of restriction or interference in the choice of name and, once the person has been registered, that it is possible to keep and to re-establish the given name and surname.<sup>164</sup>

Additionally, the Court maintained that the establishment of the name, as an attribute of the personality, is determinant for the free development of the choices that give meaning to each person's existence, as well as to the realization of the right to identity. It is not a means of standardizing human beings; rather, to the contrary it is a factor to distinguish them. Thus, everyone should be able to choose their name freely and change their name as they wish and the failure to recognize a change of name in accordance with the self-perceived identity means that the individual loses, totally or partially, the ownership of those rights and that, although that individual exists and may find himself or herself in a determined social context within the State, their very existence in accordance with an essential component of their identity is not legally

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<sup>160</sup> Cf. OC-24, para. 104.

<sup>161</sup> Cf. OC-24, para. 105.

<sup>162</sup> Cf. OC-24, para. 106.

<sup>163</sup> Cf. OC-24, para. 107.

<sup>164</sup> Cf. OC-24, para. 107.

recognized. Under these circumstances, the right to recognition of juridical personality and the right to gender identity are impaired.<sup>165</sup> It can also be inferred that the right to recognition of gender identity necessarily includes the right that the data in records and on identity documents should correspond to the sexual and gender identity assumed by transgender persons.<sup>166</sup>

A difference between the sexual and gender identity assumed by a person and the one that appears on the identity documents signifies the denial of a dimension that constitutes personal autonomy – the right to live as one wants – which, in turn, can result in rejection and discrimination by others – the right to live without humiliation – and complicates the employment opportunities that allow the person to obtain the material conditions required for a decent existence. Likewise, the Court noted that the failure to recognize this right may also impede the exercise of other fundamental rights and, consequently, have an important differential impact on transgender persons, who, as we have seen, generally find themselves in a situation of vulnerability.<sup>167</sup>

Consequently, the Court argued that it could be concluded that the right of each person to define his or her sexual and gender identity autonomously and that the data in records and on identity documents should correspond to their self-defined identity is protected by the American Convention under the provisions that ensure the free development of the personality (Articles 7 and 11(2)), the right to privacy (Article 11(2)), the recognition of juridical personality (Article 3), and the right to a name (Article 18). Thus, States must respect and ensure to everyone the possibility of registering and/or changing, rectifying or amending their name and the other essential components of their identity such as the photograph, or the reference to sex or gender, without interference by the public authorities or by third parties. This necessarily means that those who identify themselves with diverse gender identities must be recognized as such. Moreover, the State must ensure that they can exercise their rights and contract obligations based on that same identity, without being obliged to possess another identity that does not represent their individuality, especially when this involves a continuous exposure to the social questioning of that same identity, thus affecting the exercise and enjoyment of the rights recognized by domestic and international law.<sup>168</sup>

## Procedure to request amendment of identity data to conform to the self-perceived gender identity and scope of its effects

The Court established that States may determine and establish, in keeping with the characteristics of each context and their domestic law, the most appropriate procedure for a

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<sup>165</sup> Cf. OC-24, para. 111.

<sup>166</sup> Cf. OC-24, para. 112.

<sup>167</sup> Cf. OC-24, para. 114.

<sup>168</sup> Cf. OC-24, para. 115.

change of name, amendment of the photograph and rectification of the reference to sex or gender in records and on identity documents so that these conform to the self-perceived gender identity. Regardless of whether this is administrative or judicial in nature, the procedure should comply with the following requirements: (a) it should be centered on complete adjustment to the self-perceived gender identity; (b) it should be based solely on the free and informed consent of the applicant without involving requirements such as medical and/o psychological or other certifications that could be unreasonable or pathologizing; (c) it should be confidential, and the changes, corrections or amendments to the records and on the identity documents should not reflect the changes based on the gender identity; (d) it should be prompt and, insofar as possible, cost-free, and (e) it should not require evidence of surgery and/or hormonal therapy. Since the Court noted that administrative or notarial procedures were those best suited to and most appropriate for these requirements, States may provide a parallel administrative procedure that the person concerned may choose.<sup>169</sup>

Lastly, and based on the above, it can also be indicated that the procedure for a change of name, amendment of the photograph and rectification of the reference to sex or gender in the records and on the identity documents so that these conform to the self-perceived gender identity does not necessarily have to be regulated by law, because it should consist of a simple procedure to verify the applicant's intention.<sup>170</sup>

The Court also recalled that it must not change the ownership of the legal rights and obligations that may correspond to the person prior to registration of the change, nor those arising from relationships under family law at all its levels and degrees. This means that all those actions executed by a person before the procedure to amend the identity data – in accordance with his or her self-perceived gender identity – that had legal effects continue to produce these effects which are enforceable, except in cases in which the law itself determines their extinction or modification.<sup>171</sup>

## Protection under the Convention of the relationship between same-sex couples

Pursuant to the right to the protection of private and family life (Article 11(2)), as well as the right to protection of the family (Article 17), the American Convention protects the family ties that may derive from a relationship between persons of the same sex. The Court also finds that all the patrimonial rights derived from a protected family relationship between a same-sex couple must be protected, with no discrimination as regards heterosexual couples, pursuant to the right to equality and non-discrimination (Articles 1(1) and 24). However, the international obligation of States goes beyond mere patrimonial rights and includes all the internationally recognized

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<sup>169</sup> Cf. OC-24, para. 160.

<sup>170</sup> Cf. OC-24, para. 161.

<sup>171</sup> Cf. OC-24, para. 120.

human rights, as well as the rights and obligations recognized under the domestic law of each State that arise from the family ties of heterosexual couples.<sup>172</sup>

## Mechanisms by which the State may protect the different models of the family

The Court noted that States can adopt diverse types of administrative, judicial and legislative measures to ensure the rights of same-sex couples. As previously mentioned, Articles 11(2) and 17 of the Convention do not protect a specific family model, and neither of these provisions can be interpreted to exclude a group of persons from the rights recognized therein.<sup>173</sup>

It added that if a State should decide that it is not necessary to create new legal mechanisms to ensure the rights of same-sex couples and, consequently, chooses to extend those that exist to couples composed of persons of the same sex – including marriage – based on the *pro persona* principle contained in Article 29 of the Convention, this recognition would mean that the extended mechanisms would also be protected by Articles 11(2) and 17 of the Convention. The Court considered that this would be the most simple and effective way to ensure the rights derived from the relationship between same-sex couples.

In addition, the Court reiterated its consistent case law that the presumed lack of consensus within some countries regarding full respect for the rights of sexual minorities could be considered a valid argument to deny or restrict their human rights or to reproduce and perpetuate the historical and structural discrimination that such minorities have suffered.<sup>174</sup>

Regarding the institute of marriage, the Court indicated that the establishment of a differentiated treatment between heterosexual couples and couples of the same sex regarding the way in which they can form a family – either by a *de facto* marital union or a civil marriage – cannot pass the strict test of equality (*supra* para. 81) because, in the Court's opinion, there is no purpose acceptable under the Convention for which this distinction could be considered necessary or proportionate.<sup>175</sup>

The Court noted that, in order to deny the right of access to the institution of marriage, it is typically asserted that the purpose of marriage is procreation and that such a union could not meet this purpose. The Court found that this assertion is incompatible with the intention of Article 17 of the Convention, which is the protection of the family as a social reality. Moreover, the Court considered that procreation is not a characteristic that defines conjugal relationships, because affirming the contrary would be demeaning for couples – whether married or not – who, for whatever reason, are unable or unwilling to procreate.<sup>176</sup>

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<sup>172</sup> Cf. OC-24, para. 199.

<sup>173</sup> Cf. OC-24, para. 217.

<sup>174</sup> Cf. OC-24, para. 83.

<sup>175</sup> Cf. OC-24, para. 219.

<sup>176</sup> Cf. OC-24, para. 220.

Added to the above, the evolution of marriage means that its current form responds to the existence of complex interactions of, *inter alia*, cultural, religious, sociological, economic, ideological and linguistic aspects. In this regard, it observed that at times, the opposition to the marriage of same-sex couples is based on philosophical or religious convictions, The Court recognized the important role that such convictions play in the life and dignity of those who profess them. Nevertheless, it indicated that these convictions could not be used as a Convention parameter because the Court could not use them as a guide to interpretation when determining the rights of the human being. Thus, it was the Court's opinion that such convictions could not condition the provisions of the Convention in relation to discrimination based on sexual orientation. It is from that perspective that democratic societies required a climate of peaceful coexistence between the secular and the religious elements, and the role of the States and of the Court was to recognize the sphere inhabited by each of them, and never force one into the sphere of the other.<sup>177</sup>

Based on this, the Court deemed inadmissible the existence of two types of formal union to legally constitute the community of heterosexual and homosexual cohabitation, because this would create a distinction based on an individual's sexual orientation that would be discriminatory and, therefore, incompatible with the American Convention.<sup>178</sup>

In addition, as already indicated, the Court understood that the principle of human dignity is derived from the full autonomy of the individual to choose with whom he or she wishes to enter into a permanent and marital relationship, either a natural one (*de facto* union) or a formal one (marriage). This free and autonomous choice forms part of the dignity of each person and is intrinsic to the most intimate and relevant aspects of his or her identity and life project (Articles 7(1) and 11(2)). Also, the Court considered that, provided there is the intention to enter into a permanent relationship and form a family, ties exist that merit equal rights and protection whatever the sexual orientation of the parties (Articles 11(2) and 17). When asserting this, the Court was not diminishing the institution of marriage but, to the contrary, considered marriage necessary to recognize equal dignity to persons who belong to a human group that has historically been oppressed and discriminated against.<sup>179</sup>

The Court concluded that States must ensure access to all the mechanisms that exist in their domestic laws to guarantee the protection of all the rights of families composed of same-sex couples, without discrimination in relation to families constituted by heterosexual couples. To this end, States may need to amend existing mechanisms by taking administrative, judicial or legislative measures in order to extend such mechanisms to same-sex couples. States that encounter institutional difficulties to adapt existing mechanisms, on a transitional basis while promoting such reforms in good faith, have the obligation to ensure to same-sex couples, equality and parity of rights with heterosexual couples without any discrimination.<sup>180</sup>

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<sup>177</sup> Cf. OC-24, para. 222.

<sup>178</sup> Cf. OC-24, para. 223.

<sup>179</sup> Cf. OC-24, para. 224.

<sup>180</sup> Cf. OC-24, para. 228.

## IX. Financial management

### A. Income

The sub-total of regular and special income received by the Court during the 2017 accounting exercise was US\$4,413,702.92. However, it should be recalled, as mentioned in the Annual Report for 2016, that another US\$841,225.77 was received during that year for the 2017 operation.

Consequently, the total amount received in 2017 was US\$5,254,928.69. However, it should be noted that, as in 2016, of this total, the sum of US\$645,499.34 was not intended for the 2017 fiscal year, because this amount was allocated to the 2018 exercise. The latter sum consists of US\$400,000.00 contributed by Mexico as support for the functioning of the Court in 2018, plus US\$245,499.34 from Norway, as a first instalment for the operation of its project in 2018. Consequently, the net amount of income to cover expenses in 2017 was US\$4,609,429.35.

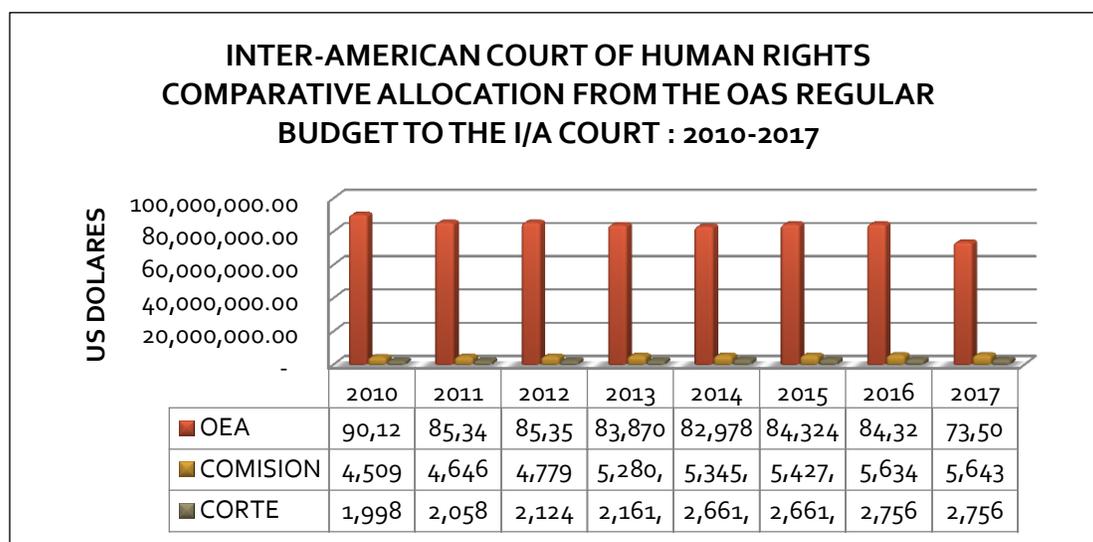
| INCOME                                   | INCOME IN US\$<br>2017 PERIOD |
|--|-------------------------------|
| <b>OAS REGULAR FUND</b>                  | 2,756,200.00                  |
| Organization of the American States      | 2,756,200.00                  |
| <b>SPECIAL INCOME</b>                    | 1,657,502.92                  |
| Government of the Republic of Costa Rica | 98,056.86                     |
| Government of the Republic of Chile      | 35,000.00                     |

|  |                     |
|--|---------------------|
| Government of the United Mexican States                                    | 400,000.00          |
| Government of the Republic of Peru   | 24,036.42           |
| Government of the Republic of Colombia                                     | 50,000.00           |
| Government of the Republic of Panama                                       | 292,500.91          |
| Spanish Agency for International Cooperation and Development               | 219,345.00          |
| Norwegian Ministry of Foreign Affairs                                      | 482,867.15          |
| German Federal Ministry for Economic Cooperation and Development (BMZ) GIZ | 34,385.00           |
| Swiss Confederation, through its Embassy in Guatemala                      | 8,896.00            |
| Heinrich Böll Stiftung Foundation (German BMZ Cooperation)                 | 9,415.58            |
| Santa Clara University   | 3,000.00            |
| <b>GRAND TOTAL</b>   | <b>4,413,702.92</b> |

## OAS regular budget: US\$2,756,200.00

The contribution of US\$2,756,200.00, from the OAS regular budget, approved during the 2016 General Assembly, represented 62.4% of the Court's total income for the financial exercise.

The following table shows the amounts allocated to the Inter-American Court of Human Rights from the OAS regular budget in recent years.



## Special income: US\$1,657,502.92

Special income is provided by voluntary contributions from States, international cooperation projects, and voluntary contributions from various other entities. In 2017, the total amount received as special income was US\$1,657,502.92. This voluntary income was composed as follows:

## Voluntary contributions from States: US\$899,594.19

During 2017, the Court received voluntary contributions from OAS Member State amount to US\$899,594.19 as follows:

- Costa Rica, under the headquarters agreement: US\$ 98,056.86
- Chile: US\$ 35,000.00
- Mexico: US\$400,000.00

|   |   |                |
|---|---|----------------|
| • | Peru:   | US\$ 24,036.42 |
| • | Colombia:   | US\$ 50,000.00 |
| • | Panama: <sup>181</sup> • Supreme Court of Justice | US\$100,000.00 |
|   | • Ministry of Foreign Affairs                     | US\$192,500.91 |

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<sup>181</sup> The funds from the Supreme Court of Justice of the Republic of Panama form part of the Cooperation Agreement between the Inter-American Court and this judicial organ; while the funds from the Ministry of Foreign Affairs of that country, through the OAS Permanent Mission, were allocated for the Court's fifty-eighth Special Session held in Panama City, Panama, from October 16 to 20, 2017.

## Contributions from international cooperation projects: US\$754,908.73

### Spanish Agency for International Cooperation and Development (AECID): US\$219,345.00

Project "Strengthening the capacities of the Inter-American Court to decide cases and provide advisory opinions that contribute to the protection of vulnerable groups, by issuing standards on the environment, the rights of indigenous peoples, the special obligations of protection for children, asylum, sexual violence and non-discrimination based on sexual orientation and gender identity, and also to disseminate hearings of cases and advisory opinions (CDH-1601)." During 2017, the contributions to the Court from this project were received in two tranches. The first tranche of 10%, amounting to US\$31,335.00, and the second of 60%, amounting to US\$188,010.00. The Court received a total of US\$219,345.00 from AECID for this project in 2017. This is a one-year project, from March 28, 2017, to March 28, 2018, and is currently being implemented. The final 30% for US\$94,005.00 will be disbursed through the OAS Department of Planning and Evaluation at the beginning of the 2018 period, to complete the total for the project of US\$313,350.00.

### Norwegian Ministry of Foreign Affairs: US\$482,867.15

Project "Strengthening the judicial capacities of the Inter-American Court of Human Rights and the dissemination of its work 2017-2019," Program CAM 2665, CAM 16/0001 for US\$1,463,400.00 over three years. During the first year of project execution, the Court received the contribution for the second six-month period amounting to US\$237,367.81 (the contribution for the first six-month period of the first year was received at the end of the 2016 exercise). In addition, the first disbursement corresponding to 2018 and amounting to US\$245,499.34 was received at the beginning of November 2017. Thus, to date the Court has received a total of US\$482,867.15.

### German cooperation, implemented through Deutsche Gesellschaft Für Internationale Zusammenarbeit (GIZ) GmbH: US\$34,385.00

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 provided support to the Inter-American Court. 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 during 2017, 2018 and 2019.

Under the said Memorandum of Understanding for joint undertakings a funding contract was signed on “Systematization and dissemination of the jurisprudence of the Inter-American Court on specific issues.” This contract, for the sum of US\$34,385.00, began on June 7 and ended on August 31, 2017.

### **Partnership Agreement for projects under the program of the United Nations High Commissioner for Refugees (UNHCR): US\$25,000**

On November 1, 2017, the Court signed a project entitled “Institutional and Technological Strengthening for the Inter-American Court of Human Rights” under the Agreement with the United Nations High Commissioner for Refugees (UNHCR). The purpose of this project is “to strengthen the efficiency and effectiveness of information generation by the Inter-American Court.” The agreement will allow the Court to acquire the technological equipment required to process, and to provide digital access to, the Court’s files. The total amount of the project is US\$25,000.00 and it will be implemented between January 9 (date on which the funds were received) and February 10, 2018.

### **Cooperation contract with the Swiss Embassy in Guatemala: US\$ 8,896.00**

The Swiss Confederation provided support to the Court through its Embassy in Guatemala. On March 6, 2017, the Embassy of Switzerland in Guatemala and the Inter-American Court signed a cooperation contract for the project “Financial support for the implementation of activities related to monitoring compliance with the Court’s judgments during its session in Guatemala (March 20 to 27).” The total amount for the project was GTQ 76,600 (Guatemalan quetzals) or the equivalent sum in United States dollars when the funds were received by the Banco Nacional de Costa Rica (US\$10,351.35). The Court executed expenditure of US\$8,896.00 against this sum. Financial and narrative reports were sent to the Swiss Embassy in Guatemala at the end of 2017. When the process of revising and approving these reports has been completed, the Court will return the unexecuted amount of US\$1,455.35.

### **Cooperation agreement with the Federal Ministry of Economic Cooperation and Development (BMZ) – Heinrich Böll Stiftung Foundation: US\$9,415.58**

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 “Monitoring compliance with judgments, Paraguay,” executed between August and November 2017. The total amount for the project was set at US\$26,826.21, of which the Court received a disbursement of US\$24,143.59, representing 90% of the total. The Court executed expenditure for US\$9,415.58 against that amount. At the end of 2017, financial and narrative reports were sent to the Heinrich Böll Stiftung Foundation in El Salvador. When the process of revising and approving these reports has been completed, the Court will return the unexecuted amount of US\$14,728.01.

### **Income from rental of facilities: US\$3,000.00**

The Court received the sum of US\$3,000.00 from Santa Clara University, United States of America, because the University’s Law School held its summer program on International Human Rights Law on the Court’s premises.

### **Technical support to the Secretariat of the Inter-American Court**

The **Konrad Adenauer Foundation** financed the travel and accommodation of the judges of the Court on several occasions during 2017.

The **Federal Ministry of Economic Cooperation and Development (BMZ)** of the German Federal Republic, through the Center for International Migration and Development, a working group formed by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) and the German Employment Agency, continued to provide technical assistance to the Court in 2017 by assigning a lawyer to work in the Court’s Secretariat. In addition, the BMZ through the GIZ has continued to implement the DIRAJus project, which includes the work of a German lawyer who conducted research on access to justice and is developing an important tool known as “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 through partial financial support for a lawyer who is working in the Secretariat for one year.

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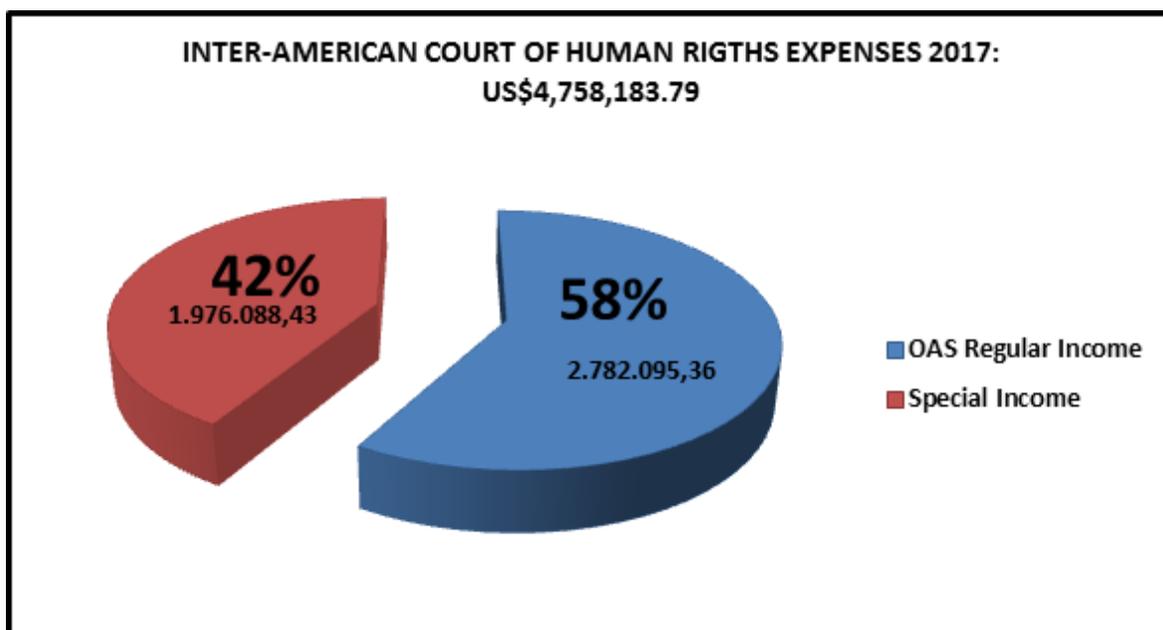
## **B. Total expenses 2017**

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It should be noted that not all the income received in 2017 was intended to finance this year’s budget. Some of the income received during the year was for projects and ordinary expenses in 2018. This corresponds to the funds from Mexico amounting to US\$4,000,000.00, and the Court

also received US\$245,499.34 from Norway, as an advance exclusively to fund the first six-month period of the second year of the project, which commences in January 2018 and extends until 2019.

In 2017, the Court executed a budget of US\$4,758,183.79, composed of ordinary income from the OAS Regular Fund (58.4%) and special or specific income (41.5%), as shown in the following table:



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## C. Response of the States to the precarious financial situation over the next three years

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

This situation was made worse because, at the end of 2015, the Court was notified that the cooperation it had been receiving from Denmark and Norway would be suspended definitively at the end of 2016. Even though the situation with regard to Norwegian cooperation was reversed at

the end of 2016 and another cooperation agreement was signed to cover the period from 2017 to 2019, the Court took concrete steps to try and mitigate the potential impact of this withdrawal of some of the international cooperation that it had been receiving on its predictable future income.

The Inter-American Court responded to these circumstances by undertaking various administrative, political and diplomatic measures to improve the situation. It set up a working group, together with the Inter-American Commission, and joint proposals were submitted to the OAS political organs. On several occasions, the President, the Vice President and the Secretary visited the Permanent Council and met with the permanent representatives of different States.

Finally, on July 21, 2017, during the OAS General Assembly in Cancún, Mexico, in two resolutions, the States of the Americas decided to double the resources of the Regular Fund allocated to the organs of the inter-American system.<sup>182</sup> This was a landmark decision that will permit a gradual increase of 33% a year to each organ. This means that the regular budget allocated by the OAS will double after three years. The General Assembly resolutions are a first step towards changing the current situation in which the Commission and the Court are excessively dependent on voluntary financial contributions and donations which affected its planning capacity and its predictability. The Inter-American Court greatly appreciates the consensus achieved in the adoption of this historic and unprecedented decision. In particular, the Court acknowledges the leadership provided by Argentina and Mexico in this process, and also the contribution made by the countries that co-sponsored the resolutions and those that supported this measure. Without any doubt, it represents a significant step forward for the effective strengthening of the inter-American human rights system, which also received crucial support from the civil society and the regional human rights community.

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## D. Regular Fund budget approved for 2018

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During its fifty-second Special Session held in Washington, D.C., on October 30, 2017, the OAS General Assembly approved a budgetary envelope for the Court in 2018 that included an additional 33% of the budget assigned for 2017, which represented US\$909,546.00, for a new total of US\$3,665,700.00.

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## E. Audit of the financial statements

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<sup>182</sup> AG/RES. 2908 (XLVII-O/17) "Promotion and Protection of Human Rights" and AG/RES. 2912 (XLVII-O/17) "Financing of the 2018 Program-Budget of the Organization"

During 2017, an audit was conducted of the Inter-American Court's financial statements for the 2016 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 23, 2017, report of *Venegas and Colegiados, Auditors and Consultants*, the Court's financial statements adequately reflected the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2015, which are in keeping with generally accepted and consistently applied accounting principles for non-profit organizations (such as the Court). The report of the independent auditors shows that the internal accounting control system used by the Court is adequate for recording and controlling transactions and that reasonable business practices are used to ensure the most effective use of the funds provided. A copy of the report was sent to the OAS Secretary General, the OAS Financial Services Department, the Organization's Inspector General and the Board of External Auditors. In addition, each cooperation project is subject to an independent audit to ensure the most effective use of the resources.

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

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

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### A. Victims' Legal Assistance Fund

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#### Procedure

On February 4, 2010, the Court's Rules for the Operation of the Victims' Legal Assistance Fund (hereinafter, "the Fund") were issued and they entered into force on June 1, 2010. The purpose of the Fund is to facilitate access to the inter-American human rights system to those persons who, at the present time, do not have the necessary resources to bring their case before the Court.

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 that is satisfactory to the Court, that they lack sufficient financial resources to cover the costs of litigation before the Court and indicate precisely which aspects of their participation require the use of resources from the Fund.<sup>183</sup> The President is responsible for evaluating each application to

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<sup>183</sup> *Ibid.* article 2.

determine whether or not it is admissible, and will indicate which aspects of the participation can be covered by the Victims' Legal Assistance Fund.<sup>184</sup>

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.

## Donations to the fund

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

Initially, the funds only came from a cooperation project signed with Norway for the period 2010-2012, which provided US\$210,000.00 to the Legal Assistance Fund, and from the donation of US\$25,000.00 to the Fund by Colombia. During 2012, based on new cooperation agreements signed with Norway and Denmark, the Court obtained commitments for additional funding for 2013-2015 of US\$65,518.32 and US\$55,072.46 respectively. In 2016, the Court received US\$15,000.00 from Norway and, finally, for execution of the 2017 budget, the Court received US\$24,616.07.

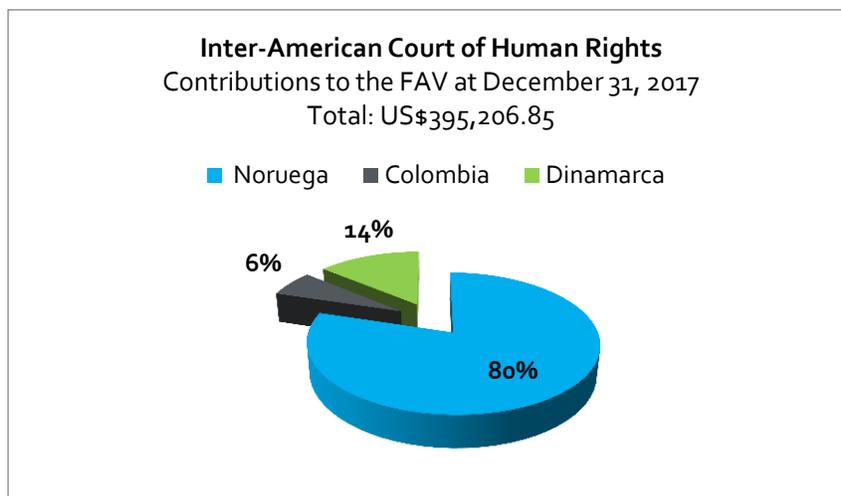
Based on the foregoing, at December 2017, total contributions to the fund amounted to US\$395,206.85.

The list of donor countries to date is as follows:

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<sup>184</sup> *Ibid.* article 3.

| Contributions and donations to the Fund |                  |                       |
|---|------------------|-----------------------|
| State                                   | Year             | Contributions 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             |
|   | <b>SUB-TOTAL</b> | <b>US\$395,206.85</b> |



## Application of the Victims' Legal Assistance Fund

### c) Expenses approved in 2017

During 2017, 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 2017 |                   |   |
|---|-------------------|---|
| Case  | Order             | Description of the disbursements covered  |
| Vladimir Herzog <i>et al.</i> v. Brazil       | February 23, 2017 | Presentation of a maximum of three statements either at the hearing or by affidavit |
| Isaza Uribe <i>et al.</i> v. Colombia         | May 4, 2017       | Presentation of a maximum of three statements either at the hearing or by affidavit |
| Selvas Gómez <i>et al.</i> v. Mexico          | May 21, 2017      | Presentation of a maximum of five statements either at the hearing or by affidavit  |
| Cuscul Pivaral <i>et al.</i> v. Guatemala     | July 24, 2017     | Presentation of a maximum of five statements either at the hearing or by affidavit  |

|  |                 |   |
|--|-----------------|---|
| Terrones Silva <i>et al.</i> v. Peru       | July 24, 2017   | affidavit<br>Presentation of a maximum of three statements either at the hearing or by affidavit  |
| Villamizar Durán <i>et al.</i> v. Colombia | July 31, 2017   | Presentation of a maximum of five statements either at the hearing or by affidavit  |
| López Soto <i>et al.</i> v. Venezuela      | August 22, 2017 | Presentation of a maximum of five statements either at the hearing or by affidavit; expenses associated with the attendance of the victim's personal psychologist |

#### d) FAV expenses in 2017

During 2017, the Court's Secretariat made payments to presumed victims, expert witnesses, public defenders and representatives; also, for the notarization of affidavits and the reimbursement of different expenses in 10 cases that had been previously approved and an order issued. Details of the disbursements made are shown in the following table:

| Victims' Legal Assistance Fund |  |           |
|--------------------------------|--|-----------|
| Expenses incurred in 2017      |  |           |
| Total number                   | Case                                       | Amount    |
| NORWEGIAN FUND                 |  |           |
| 1                              | Lagos del Campo v. Peru*                   | 879.00    |
| 2                              | Manfred Amrhein et al. v. Costa Rica*      | 5,789.30  |
| 3                              | Ortiz Hernández et al. v. Venezuela*       | 11,604.03 |
| 4                              | Vladimir Herzog et al. v. Brazil*          | 4,260.95  |
| 5                              | Ramírez Escobar et al. v. Guatemala*       | 2,082.79  |
| 6                              | V.R.P. and V.P.C. v. Nicaragua             | 13,862.51 |
| 7                              | Villamizar Durán <i>et al.</i> v. Colombia | 6,404.37  |
| 8                              | Poblete Vilches <i>et al.</i> v. Chile     | 10,939.93 |

|                           |   |                           |
|---------------------------|---|---------------------------|
| 9                         | Selvas Gómez <i>et al.</i> v. Mexico  | 4,214.20                  |
| 10                        | Matter of the Peace Community of San José de Apartadó with regard to Colombia | 1,116.46                  |
|                           |   | <b>SUBTOTAL 61,153.54</b> |
| <b>FINANCIAL EXPENSES</b> |   |                           |
|                           | Financial expenses (Exchange rate differential)                               | 178.44                    |
|                           |   | <b>TOTAL 61,331.98</b>    |

\*These expenses were funded by the Norwegian international cooperation project "Strengthening of the jurisdictional capacities of the Inter-American Court and of the dissemination of its work" for an amount of 24,616.07

### e) Expenses approved and respective reimbursements from 2010 to 2017

From 2010 to 2017, access to the Victims' Legal Assistance Fund of the Court has been granted in 61 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. Of this total of 61 cases:

- In 33 cases, the respective States have reimbursed the Fund.
- In one case the Court did not order the State to reimburse the Fund, because it was not found internationally responsible in the judgment.
- In 27 cases reimbursement of the Fund remains pending. However, of these 27 cases, the judgments or order requiring the State to make the reimbursement has not yet been issued.

| Victims' Legal Assistance Fund  |  |             |                         |                    |
|---------------------------------|--|-------------|-------------------------|--------------------|
| Reimbursements made to the Fund |  |             |                         |                    |
|                                 | Case   | State       | Reimbursement (in US\$) | Interest (in US\$) |
| 1                               | Mendoza <i>et al.</i>  | 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 members  | Argentina   | 13,547.87               | 4,213.83           |
| 5                               | Torres Millacura <i>et al.</i>   | Argentina   | 10,043.02               | 4,286.03           |
| 6                               | Pacheco Tineo family   | Bolivia     | 9,564.63                | 0.00               |
| 7                               | I.V.   | Bolivia     | 1,623.21                | 0.00               |
| 8                               | Norín Catrimán <i>et al.</i>   | Chile       | 7,652.88                | 0.00               |
| 9                               | Kichwa Indigenous People of Sarayaku   | Ecuador     | 6,344.62                | 0.00               |
| 10                              | Suárez Peralta   | Ecuador     | 1,436.00                | 0.00               |
| 11                              | Contreras <i>et al.</i>  | El Salvador | 4,131.51                | 0.00               |
| 12                              | Massacres of El Mozote and neighboring places                                | El Salvador | 6,034.36                | 0.00               |
| 13                              | Rochac Hernández <i>et al.</i>   | El Salvador | 4,134.29                | 0.00               |
| 14                              | Ruano Torres <i>et al.</i> v. El Salvador                                    | El Salvador | 4,555.62                | 0.00               |
| 15                              | Veliz Franco <i>et al.</i>   | Guatemala   | 2,117.99                | 0.00               |
| 16                              | Chinchilla Sandoval <i>et al.</i>  | Guatemala   | 993.35                  | 0.00               |
| 17                              | Triunfo de la Cruz Garifuna Community and its members                        | Honduras    | 1,662.97                | 0.00               |
| 18                              | Punta Piedra Garifuna Community and its members                              | Honduras    | 8,528.06                | 0.00               |
| 19                              | Kuna Indigenous Peoples of Madungandí and Emberá of Bayano and their members | Panama      | 4,670.21                | 0.00               |
| 20                              | Osorio Rivera <i>et al.</i>  | Peru        | 3,306.86                | 0.00               |
| 21                              | J.   | Peru        | 3,683.52                | 0.00               |
| 22                              | Miguel Castro Castro Prison  | Peru        | 2,756.29                | 0.00               |
| 23                              | Espinoza Gonzáles <i>et al.</i>  | Peru        | 1,972.59                | 0.00               |

|  |  |           |                       |             |
|--|--|-----------|-----------------------|-------------|
| 24   | Cruz Sánchez <i>et al.</i>                   | Peru      | 1,685.36              | 0.00        |
| 25   | Campeño Community of Santa Bárbara           | Peru      | 3,457.40              | 0.00        |
| 26   | Canales Huapaya <i>et al.</i>                | Peru      | 15,655.09             | 0.00        |
| 27   | Valdemir Quispialaya Vicalpoma               | Peru      | 1,673.00              | 0.00        |
| 28   | Tenorio Roca <i>et al.</i>                   | Peru      | 2,133.69              | 0.00        |
| 29   | Tarazona Arrieta <i>et al.</i>               | Peru      | 2,030.89              | 0.00        |
|  | Interest paid by the State of Peru           | Peru      | 0.00                  | 197.66      |
| 30   | Barrios family                               | Venezuela | 3,232.16              | 0.00        |
| 31   | Néstor José and Luis Uzcategui <i>et al.</i> | Venezuela | 4,833.12              | 0.00        |
| 32   | Landaeta Mejías <i>et al.</i>                | Venezuela | 2,725.17              | 0.00        |
| 33   | Barrios family (Monitoring compliance)       | Venezuela | 1,326.33              | 0.00        |
| SUB-TOTAL                                      |  |           | \$157,491.41          | \$14,739.20 |
| <b>TOTAL RECOVERED (EXPENSES AND INTEREST)</b> |  |           | <b>US\$172,230.61</b> |             |

| Victims' Legal Assistance Fund<br>Case which is not obliged to reimburse the fund |   |                         |
|---|---|-------------------------|
| Number  | Case  | Reimbursement (in US\$) |
| 1   | <b>Castillo González <i>et al.</i> v. Venezuela</b> | 2,956.95                |
| <b>TOTAL FOR THE CASE US\$2,956.95</b>  |   |                         |

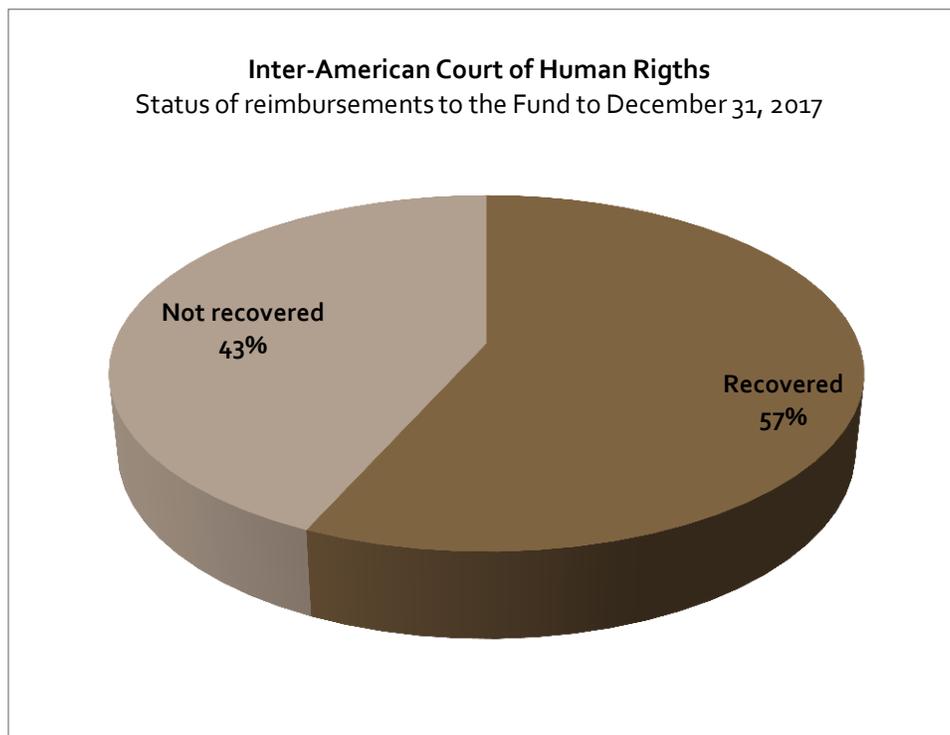
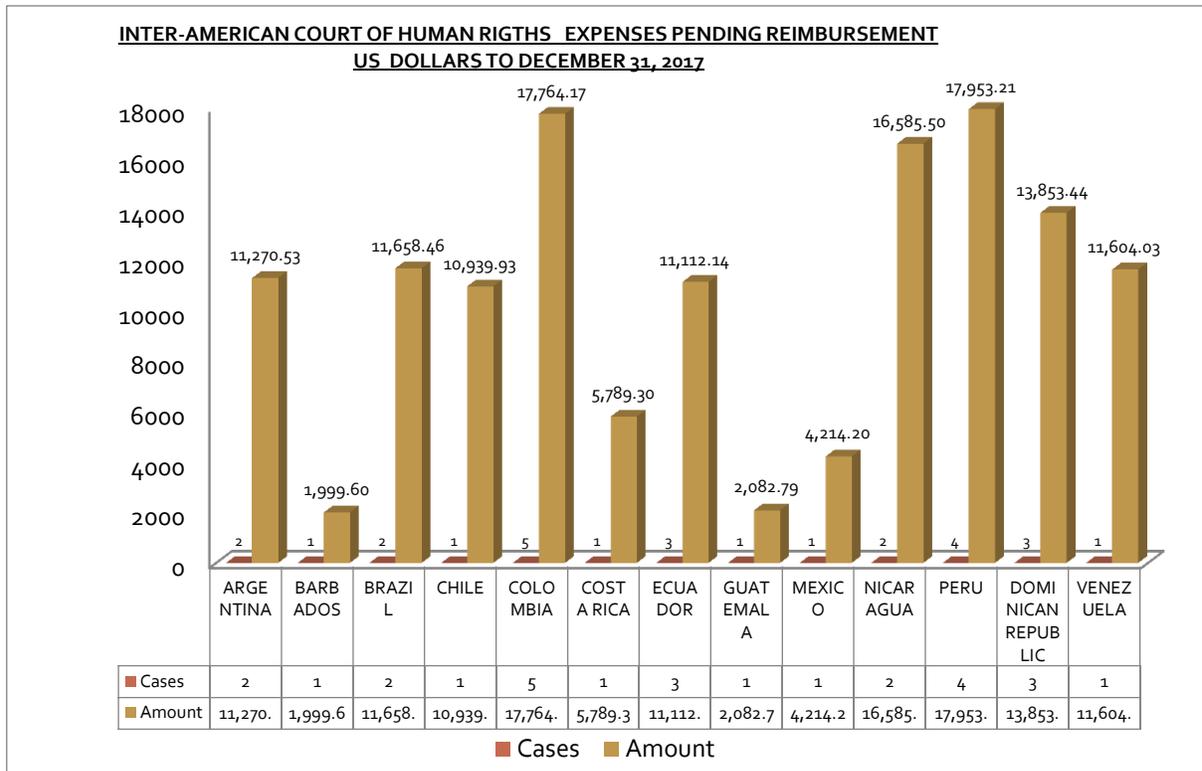
## Victims' Legal Assistance Fund

Expenses pending reimbursement, by case and by State, at December 31, 2017

| Total number     | Number by State | Case                                    | Amount    | Date payment was ordered   |
|------------------|-----------------|---|-----------|--|
| <b>ARGENTINA</b> |                 |   |           |  |
| 1                | 1               | Argüelles <i>et al.</i>                 | 7,244.95  | November 20, 2014  |
| 2                | 2               | Furlan and family members               | 4,025.58  | November 4, 2016   |
| TOTAL 11,270.53  |                 |   |           |  |
| <b>BARBADOS</b>  |                 |   |           |  |
| 3                | 1               | Dacosta Cadogan and Boyce <i>et al.</i> | 1,999.60  | November 14, 2017  |
| TOTAL 1,999.60   |                 |   |           |  |
| <b>BRAZIL</b>    |                 |   |           |  |
| 4                | 1               | Favela Nova Brasília                    | 7,397.51  | February 16, 2017  |
| 5                | 2               | Vladimir Herzog <i>et al.</i>           | 4,260.95  | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 11,658.46  |                 |   |           |  |
| <b>CHILE</b>     |                 |   |           |  |
| 6                | 1               | Poblete Vilches <i>et al.</i>           | 10,939.93 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 10,939.93  |                 |   |           |  |
| <b>COLOMBIA</b>  |                 |   |           |  |
| 7                | 1               | Vereda la Esperanza                     | 2,892.94  | August 31, 2017  |
| 8                | 2               | Yarce <i>et al.</i>                     | 4,841.06  | November 22, 2016  |

|                 |   |   |          |  |
|-----------------|---|---|----------|--|
| 9               | 3 | Duque   | 2,509.34 | February 26, 2016  |
| 10              | 4 | Villamizar Durán <i>et al.</i>                        | 6,404.37 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| 11              | 5 | Matter of the Peace Community of San José de Apartadó | 1,116.46 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 17,764.17 |   |   |          |  |
| COSTA RICA      |   |   |          |  |
| 12              | 1 | Manfred Amrhein <i>et al.</i>                         | 5,789.30 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 5,789.30  |   |   |          |  |
| ECUADOR         |   |   |          |  |
| 13              | 1 | Gonzales Lluy <i>et al.</i>                           | 4,649.54 | September 1, 2015  |
| 14              | 2 | Vásquez Durand  | 1,674.35 | February 15, 2017  |
| 15              | 3 | Flor Freire   | 4,788.25 | August 31, 2016  |
| TOTAL 11,112.14 |   |   |          |  |
| GUATEMALA       |   |   |          |  |
| 16              | 1 | Ramírez Escobar <i>et al.</i>                         | 2,082.79 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 2,082.79  |   |   |          |  |
| MEXICO          |   |   |          |  |
| 17              | 1 | Selvas Gómez <i>et al.</i>                            | 4,214.20 | Judgment has not been delivered, so the obligation to reimburse has not been determined. |
| TOTAL 4,214.20  |   |   |          |  |
| NICARAGUA       |   |   |          |  |
| 18              | 1 | Acosta <i>et al.</i>                                  | 2,722.99 | March 25, 2017   |

|                                    |   |                                  |           |                   |
|------------------------------------|---|----------------------------------|-----------|-------------------|
| 18                                 | 2 | V.R.P. and V.P.C.                | 13,862.51 | March 25, 2017    |
| TOTAL 16,585.50                    |   |                                  |           |                   |
| PERU                               |   |                                  |           |                   |
| 20                                 | 1 | Zegarra Marín                    | 8,523.10  | February 15, 2017 |
| 21                                 | 2 | Pollo Rivera                     | 4,330.76  | October 21, 2016  |
| 22                                 | 3 | Dismissed Employees of PetroPeru | 3,762.54  | November 23, 2017 |
| 23                                 | 4 | Lagos del Campo                  | 1,336.81  | August 31, 2017   |
| TOTAL 17,953.21                    |   |                                  |           |                   |
| DOMINICAN REPUBLIC                 |   |                                  |           |                   |
| 24                                 | 1 | González Medina                  | 2,219.48  | February 27, 2012 |
| 25                                 | 2 | Nadege Dorzema <i>et al.</i>     | 5,972.21  | October 24, 2012  |
| 26                                 | 3 | Expelled Dominicans and Haitians | 5,661.75  | August 28, 2014   |
| TOTAL 13,853.44                    |   |                                  |           |                   |
| VENEZUELA                          |   |                                  |           |                   |
| 27                                 | 1 | Ortiz Hernández <i>et al.</i>    | 11,604.03 | August 22, 2017   |
| TOTAL 11,604.03                    |   |                                  |           |                   |
| <b>TOTAL AMOUNT US\$136,827.30</b> |   |                                  |           |                   |



Inter-American Court of Human Rights  
Victims' Legal Assistance Fund  
**Summary of the Fund activities**  
From January 1, 2010, to December 31, 2017  
(in US\$)

**Income**

|   |                |                   |
|---|----------------|-------------------|
|   | Contributions: | 395,206.85        |
| Disbursements to beneficiaries of the Fund<br>(expenses): |                | (294,318.71)      |
| <b>Sub-total Income</b>                                   | <b>\$</b>      | <b>100,888.14</b> |

**Other income**

|                                   |                              |                   |
|-----------------------------------|------------------------------|-------------------|
|                                   | Reimbursement by the States: | 157,491.41        |
| Interest earned on arrears:       |                              | 14,739.20         |
| Interest earned on bank accounts: |                              | 2,469.69          |
| <b>Sub-total Other income</b>     | <b>\$</b>                    | <b>174,700.30</b> |

**Non-reimbursable expenses**

|  |                                    |                   |
|--|------------------------------------|-------------------|
|  | Financial administration expenses: | (1,697.73)        |
| **Non-reimbursable expenses:               |                                    | (7,686.74)        |
| <b>Sub-total Non-reimbursable expenses</b> | <b>\$</b>                          | <b>(9,384.47)</b> |
| <b>Balance of the Fund</b>                 | <b>\$</b>                          | <b>266,203.97</b> |

## f) 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 and 2016 have been approved, indicating that, in all important aspects, they present the income and available funds in keeping with generally

accepted accounting and auditing principles. The auditor's reports also state that the disbursements have been administered correctly, that no illegal activities or corruption have been discovered, and that the funds have been used exclusively to cover the expenses of the Victims' Fund operated by the Court. A copy of these reports and of those corresponding to the financial exercise ending in December 2015 have been sent to the General Secretariat of the OAS and to the OAS Office of Audit Services.

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## B. Inter-American Public Defender

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

In order to implement the concept of inter-American defender, in 2010, the Court signed a Memorandum of Understanding with the Inter-American Association of Public Defenders (hereinafter "the AIDEF"),<sup>185</sup> which entered into force on January 1, 2010. Under this agreement, in those cases in which the presumed victims lack financial resources and/or legal representation before the Court, the AIDEF will appoint a public defender who belongs to the Association to assume their legal representation and defense during the entire proceedings. To this end, when a presumed victim does not have legal representation in a case and indicates his or her wish to be represented by an inter-American defender, the Court will inform the AIDEF General Coordinator so that, within 10 days, the latter may appoint the defender who will assume the legal representation and defense. In addition, the Court will notify the documentation relating to the submission of the case to the Court to the member of the AIDEF appointed as the public defender so that the latter may, from then on, assume the legal representation of the presumed victim before the Court throughout the processing of the case.

As mentioned above, the legal representation before the Inter-American Court by the person appointed by the AIDEF is provided free of charge, and the latter will charge only the expenses arising from the defense. The Inter-American Court of Human Rights will pay the reasonable and necessary expenses that the respective inter-American defender incurs, insofar as possible, and through the Victims' Legal Assistance Fund. Furthermore, on June 7, 2013, the AIDEF Board approved the new "Unified Rules of Procedure for the actions of the AIDEF before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights." To date, the AIDEF has provided legal assistance through this mechanism in 15 cases and the Court has already delivered judgment in nine of them:

1. Pacheco Tineo v. Bolivia;
2. Furlan and family members v. Argentina;
3. Mohamed v. Argentina;
4. Argüelles Vs Argentina;
5. Canales Huapaya v. Peru;
6. Ruano Torres and family v. El Salvador;

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<sup>185</sup> 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.

7. Pollo Rivera v. Peru.
8. Zegarra Marín v. Peru
9. Ortiz Hernández *et al.* v. Venezuela

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

1. Manfred Amrhein *et al.* v. Costa Rica
2. Case of V.R.P. and V.P.C. v. Nicaragua
3. Poblete Vilches *et al.* v. Chile
4. Villaseñor *et al.* v. Guatemala
5. Muelle Flores v. Peru.
6. Jenkins v. Argentina

## XI. Other activities of the Court

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### A. Dialogue with international organizations

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#### Inter-American Commission on Human Rights

On April 26, the Joint Working Group created by the Inter-American Commission and the Inter-American Court to deal with the budgetary issue held its second meeting, with the participation of the President of the Court, the Vice President and the Secretary, together with the President of the Inter-American Commission, Francisco Eguiguren, and the Secretary, Paulo Abrão.

On June 22, during the OAS General Assembly, the Joint Working Group of the Commission and the Court held a third meeting, during which progress was made on the successful ongoing inter-institutional dialogue, which has intensified over recent years. In addition, the Working Group discussed the budgetary issue in the context of the decision taken by the OAS General Assembly to double the budget of the two organs.

On September 2, the Court and the Inter-American Commission held a working meeting at the Legal Research Institute of the Universidad Nacional Autónoma de México in order to further institutional dialogue between the two organs. The judges and commissioners discussed the main challenges faced by the inter-American system in relation to the petitions and cases examined, as well as budgetary matters.

#### OAS General Assembly

From June 19 to 21, the forty-seventh Regular Session of the OAS General Assembly was held in Cancun, Mexico. The Court's President, Vice President and Secretary attended the event in order to present the Court's Annual Report. The representatives of the Court supported the objective of doubling the budget for 2018, as proposed by the delegations of Argentina, Chile, Costa Rica, Mexico, Panama and Peru in their budgetary resolutions. On June 21, the Assembly decided to accept the initiative of doubling the resources of the Regular Fund allocated to the organs of the inter-American system over the next three years. In the words of the President of the Court, this decision reveals the growing commitment to human rights of the States of the Americas and will

contribute to ensuring “the independence, autonomy and institutional integrity of the Inter-American Court and Commission.”



Both the Inter-American Commission and the Inter-American Court expressed their appreciation for the consensus reached on this decision and, in particular, for the role played by the States of Mexico and Argentina as leaders of the process. The two organs also expressed their appreciation for the support shown by NGOs and other members of civil society, national and international organizations, sectors of academia and United Nations agencies to achieve adequate funding for the system and undertook to continue using the resources in a transparent and responsible manner.

## OAS Permanent Council

On April 25, the Mexican delegation to the OAS organized a meeting between the President of the Court, its Vice President and its Secretary and 18 delegations to discuss the Court’s budget. The representatives of the Inter-American Court also met with the delegations of Brazil, Chile, Costa Rica, Ecuador, Peru and Spain.

On April 26, the President of the Court, accompanied by the Vice President and the Secretary, presented the Annual Report of the Inter-American Court to the Committee on Juridical and Political Affairs of the OAS Permanent Council.

## OAS Secretary General

On April 25, the President of the Court, the Vice President and the Secretary met with the OAS Secretary General, Luis Almagro to discuss different issues including the budgetary situation of the Inter-American Court.

## United Nations Secretary-General

On December 6, the President of the Inter-American Court of Human Rights, Judge Roberto F. Caldas, and the Vice President, Judge Eduardo Ferrer Mac-Gregor, met with the United Nations Secretary-General, António Guterres. They discussed the present and future challenges facing both the inter-American system and the universal system for the protection of human rights and the intention to expand opportunities for dialogue and cooperation. They also discussed the relationship between peace, human rights and sustainable development, as well as the current challenges facing migration, and the international protection of refugees and migrants.



## European Court of Human Rights

The Court maintains fluid and productive relations with its European counterpart, the European Court of Human Rights, with constant visits, and exchanges of personnel and information. The President of the Court, Judge Roberto Caldas, met with the ECHR President, Judge Guido Raimondi, on July 7. During 2017, the exchange program between the two courts continued based on a cooperation agreement. Under the agreement, one lawyer from each international organ makes a professional visit to the other organ to conduct research in order to obtain a better understanding of the two regional systems and encourage continuing collaboration between the two courts.

## United Nations High Commissioner for Human Rights

On March 23, during the fifty-seven Special Session held in Guatemala, the Inter-American Court met with representative of the United Nations High Commissioner for Human Rights (OHCHR). The Court was represented by its President, Judge Roberto F. Caldas, and the Secretary, Pablo Saavedra Alessandri, and the OHCHR by the representative of the High Commissioner, Liliana Valiña. Those present discussed the intention to strengthen relations between the two institutions and to share instruments and experiences for the protection of human rights.

On October 17, during the fifty-eighth Special Session of the Court a meeting to exchange information was held with representatives of the United Nations Office on Drugs and Crime (UNODC) for Central America and the Caribbean, the President of the Supreme Court of Justice of Panama, José E. Ayú Prado Canals, and, representing the Inter-American Court, its President, Judge Roberto F. Caldas, and Judge Patricio Pazmiño,.

Also, on October 17, a discussion was held in Panama between the Inter-American Court and the Office of the United Nations High Commissioner for Human Rights (OHCHR) and civil society organizations dedicated to the defense of LGBTI rights in Panama. The Court was represented by its President, Judge Roberto F. Caldas, the Legal Counsel, Alexei Julio, and a Secretariat lawyer. Also presented were the OHCHR Regional Representative, Alberto Brunori, and different civil society organizations, such as *Alianza Pro Igualdad* and AHMNP, as well as independent activists, all of them experts in the area of LGBTI rights.

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## B. Dialogue with national courts

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### Supreme Court of Peru

On March 15, the President of the Court met with the President of the Supreme Court of Peru, Duberlí Rodríguez, at the Sheraton Hotel in Lima. The discussion focused on the need to strengthen cooperation between the two courts.

### Constitutional Court of Peru

On March 16, the President of the Constitutional Court, Manuel Miranda and Justice Eloy Espinosa-Saldaña met with the President of the Inter-American Court, Judge Roberto F. Caldas, in order to discuss potential areas of cooperation between the two courts. Specifically, they discussed the possibility of holding a future session of the Inter-American Court in Peru, as well as the signature of a cooperation agreement that would allow justices of the Constitutional Court to carry out professional visits to the Inter-American Court.

### Constitutional Court of Guatemala

On March 22, during the Court's fifty-seventh Special Session, a meeting was held with justices of the Constitutional Court of Guatemala. The Inter-American Court was represented by the President, Judge Roberto F. Caldas, the Vice President, Eduardo Ferrer Mac-Gregor, Judge Humberto Sierra Porto and Judge Patricio Pazmiño. In addition to exchanging opinions on strategies for cooperation between the two jurisdictions, those present discussed the importance of implementing the use of international human rights standards when deciding cases in the domestic sphere.

### Supreme Court of Justice of Guatemala

Also on March 22, a working lunch was organized attended by all the judges of the Inter-American Court and the justices of the Supreme Court of Justice of Guatemala. The lunch was held during the Court's fifty-seventh Special Session in Guatemala in order to promote cooperation and interaction between the two courts.

## Supreme Court of Justice of Panama

On October 16, the President of the Court, Judge Roberto F. Caldas, the Vice President, Judge Eduardo Ferrer Mac-Gregor, Judge Eduardo Vio Grossi, Judge Humberto Antonio Sierra Porto, Judge Eugenio Raúl Zaffaroni and Judge Patricio Pazmiño Freire met with the justices of the Supreme Court of Justice of Panama. The meeting was held in the context of the Court's fifty-eighth Special Session in order to discuss opportunities for cooperation and dialogue between the two institutions. The Court's judges indicated the need to promote relations between the two courts.

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### C. Dialogue with Heads of State

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#### President del Ecuador

On May 24, the President of the Court, Judge Roberto F. Caldas, and Judge Patricio Pazmiño took part in the inauguration ceremony of the incoming President of Ecuador, Lenin Moreno, in the National Assembly in Quito.

#### President of the Republic of Guatemala

On March 20, at the start of the fifty-seventh Special Session, the full Court met with the President of the Republic of Guatemala, Jimmy Morales. In addition, to thanking him for the Government's invitation to the Court to hold a session in that country, they discussed the main challenges facing human rights in Guatemala and the region. Later, President Morales took part in the ceremony to inaugurate the session held in the Palacio de la Cultura, seat of the Guatemalan Executive branch.

#### President of the Republic of Panama

On October 16, during the fifty-eighth Special Session held in Panama City, the full Court met with the President of the Republic of Panama, Juan Carlos Varela, and also the Vice President and the Minister for Foreign Affairs, Isabel Saint Malo de Alvarado. In addition to thanking President Varela for the invitation for the Inter-American Court to hold the session in Panama, they discussed the challenges to human rights in the region. Later, President Varela took part in the ceremony to inaugurate the session.

#### President of the Republic of Peru

The President of the Court, Judge Roberto F. Caldas, met with Pedro Pablo Kuczynski, President of the Republic of Peru, on March 17, in the Palacio de Gobierno. The meeting was also attended by the Minister for Foreign Affairs, Ricardo V. Luna, and the Minister of Justice, María Soledad Pérez Tello. Among other matters, they discussed the Government's invitation to the Inter-American Court to hold a future session in Peru.

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## D. Dialogue with international agencies and organizations

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### International Commission against Impunity in Guatemala

On March 21, during the fifty-seventh Special Session, the President of the Court, Roberto F. Caldas and the Secretary, Pablo Saavedra Alessandri, met with Iván Velasquez, Head of the International Commission against Impunity in Guatemala. They discussed the need to promote opportunities for collaboration and cooperation between the two institutions, and the President of the Court underlined the importance of combating impunity as a guarantee of the right of access to justice.

### European Committee of Social Rights

On July 7, the first meeting between the Inter-American Court of Human Rights and the European Committee of Social Rights took place in Strasbourg. The President of the Court, Judge Roberto F. Caldas, and the President of the European Committee, Giuseppe Palmisano, discussed the need to establish areas of discussion and cooperation between the two institutions by the exchange of jurisprudence and experiences relating to the implementation of social rights.

### Civil society organizations

On June 18, during the OAS General Assembly, the President, the Vice President and the Secretary met with 20 civil society organizations to discuss the challenges to human rights, as well as their perspectives regarding the Assembly.

On October 20, the President of the Court met with 25 representatives of 17 Panamanian civil society organizations to discuss the main human rights challenges for Panama and the region.



## Venice Commission

On October 6 and 7, Judge Eduardo Ferrer Mac Gregor Poisot, Vice President of the Court, took part in the 112th Plenary Session of the European Commission for Democracy through Law, also known as the Venice Commission of the Council of Europe. He spoke of the crucial role played by the Inter-American Court in developing international human rights law, as well as the emerging Latin American "*ius comune*."

## Inter-American Public Defenders

On November 21, the Judges, Roberto F. Caldas, President, Eduardo Ferrer Mac-Gregor, Vice President, and Humberto Antonio Sierra Porto, and the Secretary, Pablo Saavedra Alessandri, met with the President of the Inter-American Association of Public Defenders (AIDEF), Andrés Mahnke. The purpose of the meeting was to coordinate training sessions for inter-American public defenders under the 2012 agreement between the Court and AIDEF.

## American Affairs Commission of the International Union of Notaries

On November 22, the President of the Court, Judge Roberto F. Caldas, held a meeting with the President of the American Affairs Commission of the International Union of Notaries, David Figueroa Marquéz, and its Executive Director, Guillermo Sandí Baltodano, as well as with the

President of the Costa Rica Council of Notaries, Laura Mora Camacho. The purpose of the meeting was to outline areas of training in which the Inter-American Court could provide collaboration to Colombian notaries under an agreement signed in 2016.

## Judicial facilitators

On October 20, during the fifty-eighth Special Session, a meeting was held between the President of the Inter-American Court, Judge Roberto F. Caldas, the OAS representative in Panama, Pedro Vuskovic, and seven Panamanian members of the Inter-American Program of Judicial Facilitators. Elected by their respective communities, the mandate of the facilitators is to provide assistance in the exercise of justice, as well as to lower the costs.

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## E. Dialogue with national authorities

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### Judicial Council of Peru

On March 16, the President of the Inter-American Court, Judge Roberto F. Caldas, gave a presentation on “The control of conventionality by national jurisdictions,” in the auditorium of the Judicial Council of Peru. The event was attended by justices and senior officials of the Peruvian Constitutional Court, Supreme Court and Judiciary.

### Guatemalan Ombudsman

On March 20, the President and the Secretary of the Inter-American Court met with the Guatemalan Ombudsman, Jorge De León Duque, during the fifty-seventh Special Session held in Guatemala. The meeting took place in the context of the effort to strengthen ties between the Court and national authorities. Discussions were held on how to encourage real dialogue and the main challenges that existed to human rights in Guatemala and the region.

### President of the Congress of the Republic of Guatemala

On March 21, the President of the Inter-American Court, Judge Roberto F. Caldas, and the Secretary, Pablo Saavedra Alessandri, met with Óscar Chinchilla, President of the Guatemalan Congress. The meeting was held in order to promote discussions between the two entities. Emphasis was placed on implementing international standards for the respect of human rights through legislative measures.

## Prosecutor General of Guatemala

Also on March 21, the President of the Court and the Secretary met with the Guatemalan Prosecutor General, Thelma Aldana. During the meeting, they underlined the importance of complying with the international human rights standards established by the Inter-American Court in criminal investigations. The President of the Court reiterated the need to adopt a gender perspective in the investigation and prosecution of crimes against women.

## Attorney General of the Republic of Brazil

On October 6, the President of the Court, Roberto F. Caldas, met with the Attorney General of the Federative Republic of Brazil, Raquel Dodge, to discuss possible opportunities for cooperation between the Court and the Attorney General's Office.

On November 24, the President of the Court, Judge Roberto F. Caldas, and the Attorney General of the Federative Republic of Brazil, Raquel Dodge, signed an agreement on wide-ranging, direct and reciprocal collaboration to promote technical and cultural exchanges through visits by the representatives of the two institutions, exchange of documents, training sessions, and other joint activities of mutual interest. During the signing ceremony, the Court was also represented by Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Elizabeth Odio Benito, Judge Eduardo Vio Grossi, the Secretary, Pablo Saavedra Alessandri, and the Deputy Secretary, Emilia Segares Rodríguez, while the Federal Public Prosecution Service was represented by Andre de Carvalho Ramos, Secretary for Human Rights and Collective Defense of the Cabinet of the Attorney General of the Republic, and Mara Elisa de Oliveira, Head of Cabinet.



## Office of the Attorney General of the Republic of Colombia

On November 21, Judge President Roberto F. Caldas and the Attorney General, Fernando Carrillo Florez, signed an institutional cooperation agreement in the presence, of Judge Eduardo Ferrer Mac-Gregor and Judge Humberto Antonio Sierra Porto and the Secretary, Pablo Saavedra, for the Inter-American Court and, for the Attorney General's Office, Myriam Méndez Montalvo, Attorney for Territorial Entities and Decentralization, and Gilberto Augusto Blanco Zúñiga, Attorney for Environmental Matters.

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### F. Training and dissemination activities

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During 2017, the Court organized various training and dissemination activities concerning human rights in order to disseminate information on the mandate, functioning and achievements of the Court and the inter-American human rights. These activities are described below.

#### Forum of the Inter-American System

For the first time in their history, the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights organized a debate on the present and future of human rights in the region, the effectiveness of the system, the need to increase compliance by Member States with the recommendations of the IACHR and the judgments of the Inter-American Court and other key issues on the human rights agenda in the Americas.

The Inter-American Commission and the Court co-organized the First Forum of the Inter-American Human Rights System, seeking a constructive exchange among all the participants: States, civil society, international organizations, universities, social and labor movements, and the general public who attended the event held in the Hall of the Americas and the different venues of the Commission's headquarters in Washington, D.C., on December 4 and 5, 2017.

The opening session was entitled "The Future of Human Rights in the Americas" and presentations were made by the Presidents of the Court and the Commission, and also by the OAS Secretary General and the Permanent Representative of Peru to the OAS. On December 4, a panel was held on "Taking Stock: Challenges and Main Development in the Inter-American Human Rights System," with the participation of Judges of the Inter-American Court and Commissioners of the IACHR.

During the afternoons of December 4 and 5, various parallel events were held, including seminars, workshops, roundtables, expert consultations, and presentation of reports. These events were organized by the States, and the international and civil society organizations that proposed them.

## Seminars, conferences and training courses

On March 6, the President of the Court, Judge Roberto F. Caldas, took part in the Fourth International Congress of Law of the Portuguese-speaking People organized by the Superior Military Court of Brazil, in Brasilia. The President intervened in the inaugural session, together with the Portuguese jurist, Jorge Miranda, and underscored the role of the regional human rights systems in respect for the human rights in the Portuguese-speaking States.

From March 6 to 8 a training program for the promotion and defense of human rights in Mexico took place in Mexico City. It was organized jointly by the Inter-American Court and the Mexican National Human Rights Commission and intended, above all, for officials from the state human rights commissions. The central topic of the course related to vulnerable groups and the keynote address was given by Judge Patricio Pazmiño Freire.

On March 1, Judge Elizabeth Odio Benito gave a presentation on Human Rights in Latin America at the Omar Dengo Heredian Cultural Center in Heredia, Costa Rica, on the occasion of the University Book Fair.

On March 20, an international seminar on the “Impact of the Inter-American Court of Human Rights in Latin America” was held in the courtroom of the Supreme Court of Justice of Guatemala during the fifty-seventh Special Session. During the event, presentations were made by the judges of the Inter-American Court, Guatemalan constitutional and high court justices, senior national authorities, representatives of international organizations and of civil society, and also experts from academia. The seminar was attended by senior government authorities, members of the diplomatic corps in Guatemala, academics, representatives of civil society organizations and students. The seminar included four panel discussions on: human rights and democracy; vulnerable groups; control of conventionality and impact of measures of reparation on human rights violations, and rights of indigenous and tribal peoples.



The President of the Court, Roberto F. Caldas, gave the inaugural address at the seminar on “Human right and the development of justice” held at the seat of the Court of Justice of Rondônia in Porto Velho, Brazil, on April 3.

From April 20 to 22, the Inter-American Court organized, in conjunction with German cooperation, a conference on “Judicial ethics and the fight against corruption: judicial independence, judicial responsibility and the role of the specialized organizations under Goal 16 of the 2030 Agenda,” with the participation of: Judge Roberto F. Caldas, President of the Inter-American Court of Human Rights; Judge Eduardo Ferrer Mac-Gregor Poisot, Vice President of the Court; Professor Rudolf Mellinghoff, President of the German Federal Fiscal Court and member of the Judicial Integrity Group; Adel Omar Sherif; Luis Francisco Lozano; Rosa Maria Maggi Ducommun; José Manuel Arroyo; Justice Fernando Alberto Castro Caballero; Ricardo Pérez Manrique, President of the Ibero-American Judicial Summit and Justice of the Supreme Court of Justice of Uruguay; Judge Kashim Zannah; Justice Nancy Hernández López; Iván Velázquez Gomez, head of the International Commission against Impunity in Guatemala; Juan Jiménez Mayor, special representative of the OAS Secretary General and member of the Mission to Support the Fight against Corruption and Impunity in Honduras; Juan Carlos Sebiani Serrano; Mauro de Azevedo Menezes and Oliver Stolpe.

During the 118th Regular Session two main activities were organized. From May 22 to 26, the lawyers of the Inter-American Court’s Secretariat provided training for inter-American defenders from Argentina, Chile, Colombia, Costa Rica, Guatemala and Uruguay; above all on the legal procedures before the Court and substantive matters of international human rights law.

Then, from May 23 to 25, the Inter-American Court invited more than fifty judges, prosecutors, investigators, professors and lawyers from different Brazilian states to attend the public hearings in the context of the “Sixth International Meeting on Legal Research.”

On May 31, the President of the Court, Judge Roberto F. Caldas, gave a presentation in an act organized by the Office of the Ombudsman of the Union of Brazil, during which he mentioned the positive impact of the ombudsmen in the work of the organs of the international human rights system.

From June 1 to 3, Judge Roberto F. Caldas, President of the Court, took part in the “Twenty-third Meeting of Presidents and Justices of Constitutional Tribunals, Courts and Chambers of Latin America,” an initiative of the Rule of Law Program for Latin America of the Konrad Adenauer Foundation and the Federal Supreme Court of Brazil. The President intervened in a panel on “Fundamental rights, constitutions and economy.”

On June 19, during the forty-seventh Regular Session of the General Assembly of the OAS, the Supreme Court of Justice of Mexico organized a workshop on the “Rule of law and environmental justice: strong institutions, peaceful and inclusive societies for sustainable development,” with the participation of the President of the Court, Judge Roberto F. Caldas and Judge Eduardo Ferrer Mac-Gregor Poissot.



On June 19, the congress on “New Challenges for the Inter-American System for the Protection of Human Rights” was held in the Inter-American Hall of Human Rights at the Inter-American Institute of Human Rights in San José, organized by the Center of Excellence on Regional Integration of the Universidad de Alcalá in Spain. Judge Elizabeth Odio Benito and former judge, Manuel Ventura Robles, took part in the event.

On July 12 and 13, the “Fourth International Seminar on compliance with the decisions of the inter-American human rights system” took place in Heidelberg, organized by the Max Planck Institute for Comparative Public Law and International Law in cooperation with the Inter-American Court and other institutions. Judge Roberto F. Caldas, President of the Court, gave a presentation on “Challenges to compliance with the decisions of the inter-American human rights system,” during the inaugural panel.

On August 8, an international seminar was organized in Santiago de Chile on “Justice and immigration: from the perspective of human rights.” Judge Eduardo Vio Grossi participated in the event and outlined the Court’s most significant jurisprudence on migratory matters and underlined the role of the Chilean Ombudsman in the defense of human rights. Judge Humberto Antonio Sierra Porto was also present and spoke on the issue of control of conventionality in migratory legislation.

From August 11 to 18, the International Festival of Human Rights Cinema took place in several cities in Colombia. Various talks were organized, and the event was attended by the President of the Court, Judge Roberto F. Caldas, and the Secretary, Pablo Saavedra Alessandri.

On August 15 and 16, the international congress “New Latin American constitutionalism and social justice: achievements, progress and challenges,” was held and Judge Patricio Pazmiño intervened in the inaugural act. The event focused on the new Latin American constitutionalism as an instrument to redefine the democratic state and promote social change.



From August 22 to 31, the thirty-fifth Inter-disciplinary course on human rights “Transparent institutional measures and the fight against corruption: a human rights approach” was held in the Inter-American Institute of Human Rights. Judge Eduardo Ferrer Mac-Gregor Poissot gave a presentation on “Judicial independence and the fight against corruption.”

During the 119th Regular Session, Judge Raúl Zaffaroni gave a presentation on “Criminalization of relations between persons of the same sex: legislative background and perspectives” at the Law School of the Universidad de Costa Rica on August 30.

From August 27 to September 11, the Legal Research Institute of the Universidad Nacional Autónoma de México, in collaboration with various entities, including the Inter-American Commission and Court, organized the “Héctor Fix-Zamudio’ Diploma course on the Inter-American Human Rights System” in Mexico City. Presentations were made by the President of the Court, Judge Roberto F. Caldas, the Vice President, Judge Eduardo Ferrer Mac-Gregor Poissot, Judge Humberto Antonio Sierra Porto, Judge Elizabeth Odio and Judge Patricio Pazmiño.

On September 15, the President of the Court, Judge Roberto F. Caldas, gave the keynote speech in the international seminar on “Human Rights and Environmental Rights,” organized by the Advanced Studies Group on the Environment and Economy in International Law (EMAE) of the Universidade Federal da Santa Catarina in Brazil.

On September 18 and 19, the President of the Court, Roberto F. Caldas, Judge Patricio Pazmiño and lawyers from the Secretariat took part in the “First seminar on international human rights references: control of conventionality and jurisprudence of the Inter-American Court.” The event was organized by the Río de Janeiro Ombudsman’s Office.

From September 20 to 22, Judge Roberto F. Caldas, President of the Inter-American Court, the Vice President, Judge Eduardo Ferrer Mac-Gregor Poissot, and the Secretary, Pablo Saavedra Alessandri, took part in the “Eleventh Ibero-American Meeting and Eighth Mexican Congress on Constitutional Procedural Law” in Querétaro, Mexico. The event was sponsored by the Inter-American Court and other institutions to reflect on the changes in the theory and practice of constitutional procedural law on the occasion of the centenary of the adoption of the Mexican Constitution.

On October 20, an international seminar on “The Inter-American Court and vulnerable groups” was held in the Gran Metropolis Room of the Radisson Decápolis Hotel in Panama City. Presentations were made by the Court’s judges, and national and international human rights experts. The President of the Court, Roberto F. Caldas, gave the inaugural address on “Control of conventionality and its implications in national legal systems.” The other presentations related to four main issues: gender and LGBTI rights; migrants and indigenous and tribal peoples; challenges for the inter-American human rights system, and access to justice and dialogue with domestic courts.

From November 6 to 8, under a cooperation agreement, the Inter-American Court and the Mexican National Human Rights Commission organized a “Training course for the promotion and defense of human rights in Mexico,” in the city of Morelia. The inaugural address on “Judicial guarantees as the fundamental pillar of proceedings” was given by the judge of the Inter-American Court of Human Rights, Patricio Pazmiño Freire.

On November 24, Judge, Roberto F. Caldas, President, Judge Eduardo Ferrer Mac-Gregor Poissot, Vice President, Judge Elizabeth Odio Benito, Judge Eugenio Raúl Zaffaroni and the Deputy Secretary, Emilia Segares Rodríguez, acted as judges for the Eduardo Jimenez Arréchaga, “Moot Court” competition in which 15 universities from nine different countries participated. The competition consisted in the simulation of a hearing before the Inter-American Court of Human Rights, and the judges evaluated the knowledge of, and ability to use, the jurisprudence of the Court and other regional and international courts, debating skills, compliance with formalities, ability to answer questions, and the originality and logic of the arguments, among other elements.

On November 29, Judge Roberto F. Caldas, President of the Inter-American Court, took part in the Eleventh World Conference of the International Association of Refugee Law Judges in Athens, Greece, “Asylum and Migration Law 20 years later.” In his presentation the President of the Court spoke of the main challenges that the region of Latin America is facing in relation to migration and referred to some of the Inter-American Court’s jurisprudence to illustrate the need to provide refugees and migrants with international protection.

On December 4 and 5, the First Forum of the inter-American human rights system was held organized by the Inter-American Court and the Inter-American Commission in order to generate and promote a debate on the present and future of human rights in the region, the effectiveness

of the inter-American human rights system, the need to increase Member States' levels of compliance with the recommendations of the IACHR and the judgments of the Inter-American Court., and other key issues on the human rights agenda in the Americas.

On December 11, Judge Roberto F. Caldas participated in an international seminar on "the Inter-American human rights system and public advocacy," held in Brazil. Judge Caldas was a member of the panel on "The Brazilian State and the inter-American system," together with the Justice of the Federal Supreme Court, Ayres Britto, and the Attorney General of the Union, Grace Mendonça.

On December 12, the President, Judge Roberto F. Caldas, took part in a Brazilian television program "*Justiça Viva*," to discuss the origins of the inter-American system for the protection of human rights and the challenges it faces. He was accompanied in the discussion by human rights lawyers.

## Program of Professional Visits and Internships

The training and facilitation of exchanges of experience of the human capital 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.

This program offers students and professionals from the areas of law, international relations, political science and similar disciplines, the opportunity to gain experience at the seat of the Inter-American Court of Human Rights, as part of a working group in the legal area of the Secretariat.

Among other functions, the work consists in researching human rights issues, writing legal reports, analyzing international human rights case law, collaborating in the processing of contentious cases, advisory opinions and provisional measures, and the monitoring of compliance with the Court's judgments, and providing logistic assistance during public hearings. Owing to the large number of applicants, selection is very competitive. At the end of the program, the intern or visitor receives a diploma certifying that he or she has successfully completed the internship or visit. The Court is aware of the importance of its program of internships and professional visits nowadays. Over the last 12 years, the Court has received at its seat a total of 785 interns of 43 nationalities, in particular, academics, public servants, law students, and human rights defenders

In 2017, the Court received at its seat 81 interns and visiting professionals from the following 16 countries: Argentina, Brazil, Canada, Colombia, Costa Rica, Chile, Ecuador, France, Guatemala, Honduras, Mexico, the Netherlands, Peru, Spain, the United States of America and Venezuela.

Further information on the program of internships and professional visits offered by the Inter-American Court of Human Rights can be found [here](#).

# PROGRAM OF INTERNSHIPS AND PROFESSIONAL VISITS

From 2005 to 2017

 **785** Interns and Visiting Professionals

 **43** countries from 4 continents



|                          | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Germany                  | 1    | 2    | 0    | 1    | 1    | 2    | 0    | 1    | 0    | 2    | 1    | 0    | 0    |
| Andorra                  | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    |
| Argentina                | 6    | 2    | 2    | 9    | 2    | 8    | 6    | 4    | 6    | 5    | 5    | 4    | 12   |
| Austria                  | 0    | 2    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Bolivia                  | 0    | 0    | 0    | 1    | 1    | 1    | 0    | 1    | 0    | 0    | 1    | 2    | 0    |
| Brazil                   | 1    | 2    | 5    | 4    | 6    | 5    | 4    | 1    | 1    | 3    | 3    | 3    | 3    |
| Canada                   | 0    | 1    | 3    | 1    | 0    | 1    | 1    | 0    | 0    | 1    | 2    | 1    | 2    |
| Chile                    | 2    | 0    | 2    | 4    | 1    | 3    | 2    | 2    | 4    | 3    | 4    | 3    | 5    |
| Colombia                 | 3    | 4    | 6    | 5    | 6    | 8    | 7    | 9    | 8    | 9    | 8    | 8    | 14   |
| South Korea              | 0    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    |
| Costa Rica               | 0    | 1    | 1    | 1    | 0    | 1    | 4    | 4    | 1    | 2    | 5    | 3    | 3    |
| Cuba                     | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Ecuador                  | 0    | 1    | 0    | 1    | 2    | 1    | 1    | 2    | 3    | 5    | 4    | 2    | 3    |
| El Salvador              | 0    | 0    | 0    | 1    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    |
| Scotland                 | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    |
| Spain                    | 0    | 1    | 0    | 2    | 5    | 1    | 2    | 0    | 4    | 3    | 3    | 5    | 3    |
| United States of America | 14   | 3    | 16   | 4    | 5    | 13   | 5    | 11   | 6    | 7    | 3    | 5    | 3    |
| France                   | 1    | 0    | 2    | 2    | 4    | 3    | 1    | 2    | 5    | 1    | 1    | 2    | 1    |
| Greece                   | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Guatemala                | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 2    | 1    | 0    | 1    | 1    | 1    |
| Haiti                    | 0    | 0    | 1    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    |
| The Netherlands          | 0    | 0    | 0    | 0    | 1    | 0    | 1    | 0    | 0    | 0    | 0    | 1    | 1    |

|                     | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Honduras            | 0    | 0    | 0    | 1    | 0    | 0    | 1    | 0    | 1    | 0    | 0    | 1    | 2    |
| England             | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 1    | 1    | 0    | 2    | 0    | 0    |
| Israel              | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Ireland             | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    |
| Italy               | 1    | 2    | 0    | 0    | 1    | 1    | 2    | 2    | 1    | 0    | 2    | 0    | 0    |
| Jamaica             | 0    | 0    | 0    | 0    | 1    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    |
| Kenya               | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    |
| Mexico              | 3    | 3    | 9    | 8    | 13   | 12   | 9    | 9    | 12   | 18   | 23   | 21   | 19   |
| Nicaragua           | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Norway              | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 1    | 0    |
| Panama              | 0    | 0    | 1    | 0    | 1    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    |
| Paraguay            | 0    | 1    | 2    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    |
| Peru                | 2    | 1    | 5    | 1    | 1    | 5    | 8    | 3    | 1    | 1    | 1    | 4    | 8    |
| Poland              | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Portugal            | 2    | 0    | 1    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    |
| Puerto Rico         | 0    | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    |
| Dominican Republic  | 0    | 0    | 0    | 3    | 4    | 2    | 2    | 2    | 4    | 0    | 0    | 0    | 0    |
| Switzerland         | 2    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 1    | 0    | 0    |
| Trinidad and Tobago | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 0    |
| Uruguay             | 0    | 2    | 0    | 1    | 0    | 0    | 0    | 0    | 1    | 0    | 1    | 0    | 0    |
| Venezuela           | 0    | 3    | 0    | 0    | 1    | 0    | 0    | 0    | 2    | 2    | 1    | 1    | 1    |

## Visits of professionals and academic establishments to the seat of the Court

As part of the work of disseminating its activities, and also to allow present and future professionals to learn about the functioning of the Court, each year the Inter-American Court receives delegations of students from different academic establishments, and also professionals in the field of law and other similar areas. In the course of their visits, these professionals not only get to know the Court's facilities, but also receive talks on the functioning of the inter-American system for the protection of human rights, its history and its impact in the region and in the rest of the world. In 2017, the Inter-American Court received 58 delegations of university students, lawyers, justices and civil society organizations, from different countries.<sup>186</sup>

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<sup>186</sup> January 13, 2017, students of the University of Connecticut, USA; January 25, 2017, Víctor Orozco, Professor from the Universidad de Valencia, Spain; February 2, 2017, Peace University and students from the Universidad Javeriana, Colombia; February 7, 2017, students from the International Center for Development Studies (ICDS); February 14, 2017, students from the British School of Costa Rica; February 14, 2017, officials from IOM-Costa Rica; February 21, 2017, students from the Universidad Veritas, Costa Rica; February 24, 2017, justices and officials from the Peruvian Judiciary; March 2, 2017, members of the armed forces participating in the human rights course at the Centro William J. Perry Center and the Inter-American Institute of Human Rights (IIHR); March 3, 2017, leadership course of the National Institute for Women of Costa Rica (INAMU); March 10, 2017, students from the Universidad Latina, Costa Rica; March 24, 2017, officials from the Canadian foreign service; April 21, 2017, Peace University and students from the Universidad EAN, Colombia; May 10, 2017, students from the Central Michigan University, USA; May 14, 2017, Fundación Ética Visionaria; May 18, 2017, students from the Universidad Ibero, Mexico; May 29, 2017, students from the Universidad de Costa Rica; March 20, 2017, Professor Andrea Pisaneschi; April 20, 2017, students from the Universidad Alfonso X el Sabio, Spain, the Universidad del Rosario, Colombia, and the Berg Institute, Spain; March 28, 2017, students from the Colegio Saint Clare, students from the United Nations Model; April 5, 2017, participants in the IIHR human rights course; April 19, 2017, visitors from ILANUD; April 28, 2017, Dr. Jesús Martínez Garnelo, Justice of the Fourth Criminal Chamber of the state of Guerrero; May 2, 2017, activists and members of the NGOs Fundación Transvida and Redlactrans; May 8, 2017, students from the University of Oklahoma; June 5, 2017, students from the International Relations School of the Instituto Tecnológico Autónomo de México; June 8, 2017, Professors from Brigham Young University (BYU) and its International Center for Law and Religion Studies, and members of the Costa Rican Legislative Assembly; June 14, Visitors and students from the Organization for Tropical Studies (OTS) / University of Florida; June 19, 2017, students from the Law School at the Universidad Fidélitas, Costa Rica; July 20, 2017, students from the Florida State University, USA; July 6, 2017, students from the Universidad de la Salle, Costa Rica; July 13, 2017, Officials from the Judicial Investigation Agency (OIJ), Costa Rica; July 24, 2017, Dr. Rolando Vargas (Mexico); August 1, 2017, students from the Universidad Veritas, Costa Rica; August 18, 2017, Violeta Graciela Herrero, from the Argentine Prosecutor's Office; August 23, 2017, students from the Universidad Americana, Panama; August 31, 2017, students from the IIHR interdisciplinary human rights course; September 12, 2017, students from the IIHR interdisciplinary human rights course; September 12, 2017, judicial officials taking part in the Program on Criminal Restorative Justice and Juvenile Criminal Justice of Costa Rican Judiciary; September 27, 2017, interns of the Justice and Gender Foundation; September 30, 2017, members of the Costa Rican Electoral Observers Association (ADOEC); October 6, 2017, students from the Universidad Umecit, Panama; October 18, 2017, students from the Law School of the Universidad San Carlos de Guatemala; October 24, 2017, students from the International Center for Development Studies (ICDS); October 25, 2017, students from the ULACID, Costa Rica; October 27, 2017, students from the Universidad Libre de Derecho, Bogotá, Colombia – IIDH; October 27, 2017, visitors from the Center for Justice and International Law (CEJIL) Mesoamérica; October 31, 2017, students from the Universidad Mariano Gálvez, Guatemala; October 31, 2017, students from the Universidad Veritas, Costa Rica; November 10, 2017, students from the Master's Program on Administration of Justice at the Universidad Nacional, Costa Rica; November 15, 2017, students from the Tenth Specialized course for state officials on the use of the inter-American system for the protection of human rights, IIDH; November 15, students from the Master's Program on Criminal Law at the Universidad de San Carlos de Guatemala; November 23, officials from the State Human Rights Commission of San Luis Potosí, Mexico, and the Universidad de Matehuala; November 28, 2017, an official from the Israeli Embassy in Costa Rica and Rabbi

## XII. Agreements and relations with other entities

### A. Agreements with national State entities

The Court signed framework cooperation agreements with the following entities, under which the signatories agreed to carry out the following activities, *inter alia*: (i) organization and implementation of training events, such as congresses, seminars, conferences, academic forums, colloquiums and symposiums; (ii) specialized internships and professional visits by national officials to the seat of the Inter-American Court of Human Rights; (iii) joint research activities; (iv) making available to the national entities the advanced human rights search engine of the Inter-American Court.

- Public Prosecution Service for Labor Matters, Federative Republic of Brazil, February 7, 2017.
- Judiciary of Costa Rica, Annex 1, Exchange of notes, February 6, 2017.
- Judiciary of the state of Mexico (Judicial Academy of the state of Mexico), February 7, 2017.
- Constitutional Court of Peru. Specific Cooperation Agreement No. 0001, March 16, 2017.
- Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina, signed on May 22, 2017.
- Supreme Court of Justice of Brazil, May 31, 2017.
- Specific agreement with the Public Prosecution Service of the Autonomous City of Buenos Aires, Argentina, September 29, 2017.
- Office of the Ombudsman of the state of Río de Janeiro, Brazil, October 4, 2017.
- Judicial Council of the Republic of Ecuador, October 19, 2017.
- Office of the Panamanian Ombudsman, October 20, 2017.
- Office of the Attorney General of Colombia, November 21, 2017.
- Federal Public Prosecution Service of Brazil (translation of judgments), November 24, 2017.

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Fernando Fishel Szlajen; December 1, 2017, students from the Universidad Tecnológica de Honduras; December 1, 2017, officials from the Colombian National Police Force; December 13, 2017, students from the International Relations School of the Universidad de Panama, and December 6, 2017, students from the Universidad Fidélitas, Costa Rica.

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## B. Agreements with international entities

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The Court signed agreements with the following international organizations in order to enhance cooperation between the signatories by, *inter alia*: (i) the exchange of information and experience inherent in compliance with their respective mandates, and (ii) the adoption of commitments by the parties on issues of mutual interest that, within the framework of their authority and functions would result in the achievement of their common goals

- Andean Community Court of Justice, February 6, 2017.
- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GMBH, November 15, 2017.

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## C. Agreements with universities and other academic establishments

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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 de Guadalajara, Mexico. February 16, 2017, in Costa Rica, and March 22 in Guadalajara, Jalisco.
- Universidad de San Carlos. Guatemala. March 23, 2017.
- University College London, August 25, 2017.
- Faculty of Law, Universidade do Sao Paulo, November 6, 2017.
- Costa Rican International Law Association (ACODI), November 24, 2017.

## XIII. Dissemination of the Court's Jurisprudence and its activities

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### A. Jurisprudential Newsletter

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Since 2015, the Court publishes periodically the Jurisprudential Newsletters, which contain a summary of the Court's rulings in a synthetic and accessible format so that researchers, students, human rights' defenders, and all those interested can learn about the Court's work and the human rights standards that are developed.

These Jurisprudential Newsletters are published periodically in an electronic format in the following languages: Spanish, English, and Portuguese. The multi-lingual publication of these newsletters allows for broader access to these by the world population. At the end of 2017, and with German Cooperation, especially from the Federal Ministry for Economic Cooperation and Development, through the German Agency for Technical Cooperation (GIZ, for its German acronym), the following newsletters of this Series were updated: [Capital Punishment](#), [People in Migratory or Refugee Situations](#), [Displaced People](#), [Gender](#), [Children and Adolescents](#), [Forced Disappearance](#), [Conventionality Control](#), [Personal Liberty](#), [People Deprived of Liberty](#), [Due Process](#), [Judicial Protection](#), [Equality and No-Discrimination](#), [Transitional Justice](#), [Freedom of Thought and Expression](#).

These newsletters are made available through the Court's website, Twitter, and Facebook. These can also be accessed [here](#).

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### B. Digest

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The Digest is a new tool for acquiring knowledge about the Inter-American Court's Jurisprudence which has been designed as public document that contains all the Inter-American Court of Human Rights' (IDH Court) pronouncements of a legal nature regarding an article of the American Convention on Human Rights (ACHR). These pronouncements are ordered by legal concepts, going from the most abstract assertions to the most concrete ones, all in light of the Inter-American Court's own interpretation.

The object of this tool is to facilitate access to the ACHR'S normativity in light of the Court's Jurisprudence in order to identify what are the contributions of the Court's judgements for the specific interpretation of a provision of the ACHR. Each Digest counts with a table of contents and

the sources are found in the footnotes. Currently, there are Digests for articles 1, 2, 8, and 25 of the American Convention on Human Rights, which are the most relevant articles in relation to access to justice.

This tool is in an experimental phase as to allow the different users to make a use of it, evaluate it and provide feedback through comment and suggestions, which will be taken into account for the development of the definitive version. The Court thanks the users for their comments and suggestions in advance.

This tool represents the joint effort of the Legal Department of the Court and of the Regional International Law and Access to Justice in Latin America Program (DIRAJus, for its Spanish acronym) of the German cooperation/GIZ (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung/Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH). The foundation of this cooperation is the agreement between the Organization of the American States (OAS) and the German government for the promotion of access to justice in Latin America.

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

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## C. Website

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The Inter-American Court of Human Rights' website gives access to all the information and knowledge produced by the Tribunal with the immediacy that new technologies allow. The entire jurisprudence of the Tribunal, as well as the Court's orders on other judicial matters, and the academic and institutional activities of the Court can be found in this website. The immediate and free access to the jurisprudence gives the States part of the Inter-American System the opportunity to apply directly, in their domestic law, the Tribunal's rulings. In the same way, the immediate and free access of the website allows other interested parties to know and learn about the jurisprudence for the protection of human rights.

All throughout 2017 the Inter-American Court broadcasted live, through its website, the public hearings, as well as other various activities, including academic and institutional, both from the Court's headquarters in San José, Costa Rica and, during its 57<sup>th</sup> and 58<sup>th</sup> Extraordinary Sessions, from Guatemala City and Panama City, respectively.

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

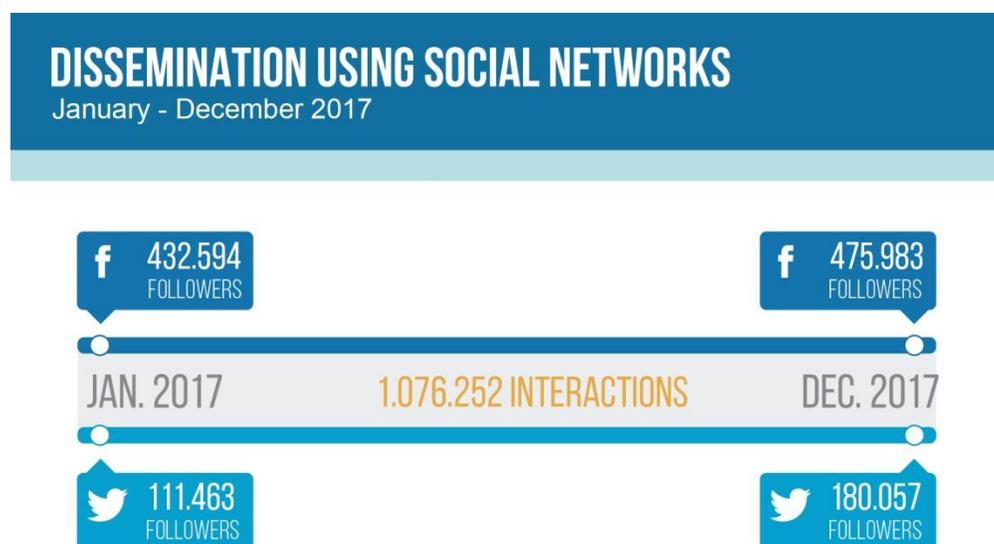
## D. Social Media

Furthermore, the Court uses social media to disseminate the Tribunal's activities which allows the Tribunal to interact with the users of the Inter-American System in a dynamic and efficient way. The Court has both Facebook and Twitter accounts. In the last year the number of followers in these networks has increased considerably.

For example, the total interactions registered from January to December of 2017 in the Tribunal's Facebook page was of 1,076,252. Currently the Tribunal's Twitter account has 205 thousand followers, 75 thousand more than what it had in 2016.

These numbers demonstrate the great public interest in knowing and sharing the content of the Court's publications. These publications are related to all kinds of the Court's activities, such as press releases, judgments and resolutions delivered, live broadcasting of hearings, academic activities, among others.

As of 2017, the Inter-American Court began the practice of transmitting a by-monthly informational newsletter in which both the jurisdictional and institutional activities, as well as public interest issues are presented.



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## E. Digital Case Files and Archive

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It is worth mentioning that the Tribunal uses electronic means to process its cases through the digitalization of all the written pleadings of the contentious, monitoring and supervision, provisional measures, and advisory opinions' case files under its jurisdiction. For this reason, the written pleadings that arrived at the Court daily are compiled in an electronic report. There were 3307 registered distribution of documents into the logbooks of the supervisors in charge of the different cases. As regards the intake of new documents, 214 consultations were resolved.

The digitalized case files are available to all the interested persons in the Court's website. During 2017 there were 18 case files published of cases that had concluded the contentious phase.

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## F. Library

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Founded in 1981, the Inter-American Court's Library provides information services to the Inter-American Court of Human Rights and to national and international researchers that daily visit the premises and use virtually the services. The Library also provides services to its clerks in the processing of case files, the conservation of these, as well as in the management, archive and dissemination of the audiovisual material produced from the hearings and academic activities realized by the Court.

The Library has extensive material on the subjects of public international law, international human rights law, and international humanitarian law, among others.

The services provided to the public are given both in person as well as virtually, which can included through its website, the chat service, Whatsapp, Skype calls, and email. These virtual means of communication allow the Library to give consultations in real time.

In 2017, there were 487 users who came to the Library in person, while there were 2308 persons who made use of the digital platforms to access the services provided by the Court's Library.

As part of its dissemination function of selective information, the Court's Library distributed through email the new acquisitions newsletter called What's New! (¡Qué hay de Nuevo!), which has a total of 6943 subscribers around the world. During the year, 49 newsletters were sent containing around of 392 new resources, both digital and in print.

With respect to the bibliographic record, there were 1654 documents added to the online catalogue in 2017. The online catalogue is accessible through the Court's website and it has a great variety of digital resources which represent a great aid for both internal as external users.