

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS \*  
OF SEPTEMBER 22, 2006**

**CASE OF HERRERA-ULLOA V. COSTA RICA  
MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The Judgment on preliminary objections, merits, reparations and costs (hereinafter "the Judgment") delivered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") on July 2, 2004, in which it unanimously:

DECLAR[ED]:

1. That the State violated the right to freedom of thought and expression protected under Article 13 of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Mr. Mauricio Herrera Ulloa, as described in paragraphs 130, 131, 132, 133 and 135 of the [...] Judgment.

2. That the State violated the right to judicial guarantees recognized in Article 8(1) of the American Convention on Human Rights, in relation to Article 1(1) thereof, and Article 8(2)(h) of the Convention, in relation to Articles 1(1) and 2 thereof, to the detriment of Mr. Mauricio Herrera Ulloa, as described in paragraphs 172, 174, 175 and 167 of the [...] Judgment.

3. That [the] Judgment constitutes *per se* a form of reparation, as established in its paragraph 200.

[...]

[AND] DECIDE[D] THAT:

4. The State must nullify the November 12, 1999 judgment of the Criminal Court of the First Judicial Circuit of San José and all the measures it orders, as established in paragraphs 195 and 204 of the [...] Judgment.

5. Within a reasonable period of time, the State must adjust its domestic legal system to conform to the provisions of Article 8(2)(h) of the American Convention on Human Rights, in relation to Article 2 thereof, as established in paragraph 198 of the [...] Judgment.

6. The State must pay non-pecuniary damages to Mr. Mauricio Herrera Ulloa in the amount of US\$ 20,000.00 (twenty thousand United States dollars) or the equivalent in

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\* Judge Oliver Jackman did not take part in the deliberations on and signing of this Order as he advised the Court that, for reasons beyond his control, he would be unable to be present at the Seventy-second Regular Session of the Court.

Costa Rican currency, as established in paragraphs 200, 203, 204 and 205 of the [...] Judgment.

7. The State must pay Mr. Mauricio Herrera Ulloa the sum of US\$ 10,000.00 (ten thousand United States dollars) or the equivalent in Costa Rican currency, to defray the expenses of his legal defense in litigating this case before the Inter-American system for the protection of human rights, as established in paragraphs 202, 203, 204 and 205 of the [...] Judgment.

8. None of the compensation ordered in operative paragraphs 6 and 7 of th[e] judgment shall be subject to any tax or levy currently in existence or ordered in the future, as established in paragraph 204 of the [...] Judgment.

9. Should the State fall into arrears, it shall pay interest on the amount owed, which will be the banking arrearage interest rate in effect in Costa Rica, under the terms specified in paragraphs 203 and 204 of the [...] Judgment.

[...]

11. The State must comply with the measures of reparation and reimbursement of expenses ordered in operative paragraphs 4, 6 and 7 of the [...] Judgment, within six months of the date of notification of the [...] Judgment.

12. Within six months of the date of notification of th[e] Judgment, the State shall submit a report to the Court on the measures taken to comply with the [...] Judgment, as established in paragraph 206 thereof.

13. The Court will oversee compliance with th[e] Judgment and will close the present case once the State has fully complied with the measures ordered herein.

## 2. The Order on compliance with the Judgment, delivered by the Court on September 12, 2005, whereby it unanimously:

DECLAR[ED]:

1. That, pursuant to Considering clause No. 9 of the [...] Order, the State has partially complied with its obligations to pay non pecuniary damages and reimburse court costs and expenses (*sixth and seventh operative paragraphs of the Judgment of July 2, 2004*).

2. That it will keep open the proceeding for monitoring compliance with those obligations that are still pending fulfillment in the instant case, namely:

a) to nullify the November 12, 1999 judgment of the Criminal Court of the First Judicial Circuit of San José and all the measures it orders, as established in paragraphs 195 and 204 of the [...] Judgment of the Inter-American Court (*fourth operative paragraph of the Judgment of July 2, 2004*);

b) to adjust its domestic legal system to conform to the provisions of Article 8(2)(h) of the American Convention on Human Rights, in relation to Article 2 thereof (*fifth operative paragraph of the Judgment of July 2, 2004*);

c) to pay non-pecuniary damages to Mauricio Herrera-Ulloa in the amount of US\$ 20,000.00 (twenty thousand United States dollars) or the equivalent in Costa Rican currency, as established in paragraphs 200, 203, 204 and 205 of the [...] Judgment (*sixth operative paragraph of the Judgment of July 2, 2004*); and

d) to pay the sum of US\$ 10,000.00 (ten thousand United States dollars) or the equivalent in Costa Rican currency to Mauricio Herrera-Ulloa, to defray the expenses of his legal defense in litigating this case before the Inter-American system for the protection of human rights, as established in paragraphs 202, 203, 204 and 205 of the [...] Judgment (*seventh operative paragraph of the Judgment of July 2, 2004*).

[AND] DECIDE[D]:

1. To call upon the State to adopt such measures as may be necessary to promptly and effectively comply with the pending aspects ordered by the Court in the Judgment on preliminary objections, merits and reparations, pursuant to Article 68(1) of the American Convention on Human Rights.
  2. To request that, by January 30, 2006, the State submit to this Inter-American Court of Human Rights a report specifying such measures as may have been adopted to comply with the reparations ordered by this Court and which are still pending fulfillment, as established in Considering clauses No. 9 to 19 and the declarative paragraphs of the [...] Order.
  3. To call upon the representatives of the victim and the Inter-American Commission on Human Rights to submit their observations to the State's report referred to in the preceding operative paragraph, within a period of four and six weeks, respectively, as from the date of receipt of the report, taking into consideration Considering clauses No. 14, 15 and 19 of the [...] Order.
  4. To continue monitoring those parts of the Judgment on preliminary objections, merits and reparations of July 2, 2004 that are still pending compliance.  
[...]
3. The communication of October 13, 2005, whereby the victims' representatives requested a certified copy of the Order of the Inter-American Court of September 12, 2005 (*supra* Having Seen clause No. 2) "for judicial purposes."
4. The brief of October 19, 2005, whereby the State of Costa Rica (hereinafter "the State" or "Costa Rica") submitted a copy of a communication from the agents appointed to this case to the First Civil Large Claims Court of the First Judicial Circuit of San José regarding the State's obligation to nullify the civil damages award entered against Mauricio Herrera-Ulloa and the "La Nación" newspaper for moral damages and court costs and personal damages. In such communication, reference is made to the endorsement to Félix Przedborski-Chawa of the certificate of deposit in the sum of ₡63,811,000.00, deposited by La Nación S.A. with said civil court in the context of case No. 000476-0180-CI. Through said communication, the aforementioned court is advised that "reimbursement of the sum delivered to Przedborski-Chawa falls within the order issued by the international court," requesting that it "tak[e] the appropriate measures to nullify the order of June 25, 2004," and take all such steps as may be required "to secure reimbursement of the money [...] to La Nación, S.A."
5. The brief of November 29, 2005 and the Appendix thereto, whereby the State requested a certified copy of the Order issued by the Court on September 12, 2005 (*supra* Having Seen clause No. 2). Furthermore, the State submitted a copy of the order handed down on October 21, 2005 by the First Civil Large Claims Court of the First Judicial Circuit of San José regarding the "enforcement of judgment proceeding instituted by Félix Przedborski-Chawa against Mauricio Herrera-Ulloa and La Nación Sociedad Anónima." Through said order, the aforementioned court requested submission of a certified copy of the abovementioned Order of the Inter-American Court on compliance with the judgment in order to "assess the legal grounds for the petition submitted to [said] authority," and noted that, unless evidence is provided proving that the Court ordered the State to "unofficially order the money deposited returned," La Nación S. A. should "request [...] reimbursement" of the amount claimed.

6. The brief of November 29, 2005, whereby the victim's representative requested a certified copy of the Judgment rendered by the Court in the instant case on July 2, 2004 (*supra* Having Seen clause No. 1).

7. The brief of January 30, 2006 and the Appendixes thereto, whereby the State submitted its report on compliance with the Judgment pursuant to the provisions of the second operative paragraph of the Court's Order of September 12, 2005 (*supra* Having Seen clause No. 2). Costa Rica stated as follows:

a) as regards the nullification of the judgment rendered on November 12, 1999 by the Criminal Court of the First Judicial Circuit of San José and all the measures thereby ordered, it stated that, in its Order of January 18, 2006, the Civil Large Claims Court, ruled that "there was no legal basis for the petition made by the [agents]." Furthermore, said civil court held that "the proceeding for the enforcement of [the criminal] judgment has already been closed," that "for better or for worse- said proceeding has been carried out," that "the affected party is entitled to [...] claim from Przedborski-Chawa reimbursement of the money in question" and that "this Authority may not, on its own motion, act further to the request." In view of the ruling of said court, a petition to Vacate and, alternatively, an Appeal was filed, stating that the Judgment of November 12, 1999 had been vacated by the Inter-American Court and the very same criminal Court that had actually rendered it, thus depriving it of all effects in the civil context, and, therefore, "the fact that legally there is no final judgment means that, apparently, there is no order [...] to enforce," *i.e.* "[t]he nullification of the former carries the inexistence of the latter." The State reported that a decision on that petition is still pending, and provided copies of the court's order and the petition and appeal filed;

b) as regards the obligation to adjust its domestic legal system to the provisions of Article 8(2)(h) of the American Convention on Human Rights (hereinafter "the American Convention on Human Rights"), in relation to Article 2 thereof, it noted that bill No. 15856, for the enactment of a Law entitled "Relaxation of Criminal Cassation Requirements Law," "is at a fairly advanced stage," and that on October 4, 2005, it was unanimously approved by the Legislative Assembly's Permanent Commission on Legal Affairs. The State provided a copy of such approval opinion and an article published by the "La Nación" newspaper, and stated that said article "acknowledges and ratifies the relaxation of the Cassation requirements on the part of the judicial authorities." Furthermore, it stated that said law is intended: to reduce the formalities for filing a writ of cassation; to allow the correction of formal defects; to allow evidence to be offered at the cassation stage "if the writ is based on a procedural defect and the court is required to rule on the manner in which a certain act was performed, in conflict with the records, the trial transcripts or the judgment [, ...] if necessary to support the claim thus asserted and where a review procedure is also permissible;" to allow a cassation writ based on "any of the grounds on which a judgment is allowed to be reviewed;" to amend the Judiciary's Organizational Law to increase the number of alternate judges sitting in courts of cassation; and to have "the Court of Criminal Cassation [be] made up of independent divisions consisting of three judges each." Once the aforementioned conditions have been met, the Court of Criminal Cassation will hear new cases in which the appropriate criminal court has rendered judgment as from such date as may be expressly set by the Supreme Court;" and

c) as regards the payment of non-pecuniary damages and reimbursement of expenses to Mauricio Herrera-Ulloa, since the State's payment of US\$ 30,000.00 (thirty thousand United States dollars) did not account for the interest accrued on the delay in payment, a request was made through the official letter of October 20, 2005 that the Minister of the Treasury would "take all appropriate measures to secure effective payment of the amount due on account of arrearage interest," a request that is being processed and was re-submitted through the official letter of January 25, 2006. The State noted that the amount due on account of arrearage interest is ₡155,799.00 (one hundred and fifty-five thousand seven hundred and ninety-nine colones), at a rate of 2% p.a., and computed from February 6 to August 24, 2005. The State provided copies of the aforementioned official letters.

8. The brief of February 28, 2006 and the Appendixes thereto, whereby the victim's representatives submitted their comments on the State's report of January 30, 2006 (*supra* Having Seen clause No. 7) and on the communications filed by the State on October 19 and November 29, 2005 (*supra* Having Seen clauses No. 4 and 5), regarding compliance with the Court's Judgment delivered in the instant case on July 2, 2004 (*supra* Having Seen clause No. 1), further to the third operative paragraph of the Court's Order of September 12, 2005 (*supra* Having Seen clause No. 2). Basically, the representatives stated as follows:

a) as regards the nullification of the judgment handed down on November 12, 1999 by the Criminal Court of the First Judicial Circuit of San José and all the measures it orders, a regular complaint was filed with the Administrative Court of Costa Rica regarding the bond posted in the amount of ₡63,811,000.00 to have the attachments ordered against La Nación Sociedad Anónima in the enforcement of the criminal judgment lifted, which money was delivered to Przedborski-Chawa. Such complaint is aimed at "collect[ing] from the State the amount of said bond plus applicable interest," and the proceeding is still pending resolution. A copy of the aforementioned complaint was filed, along with the order allowing such complaint. "[U]ntil the State has reimbursed the amount collected [by Pzerdborski] through the execution of the attachment as a result of the illegitimate judgments rendered by the Costa Rican courts, the judgment of the Court cannot be deemed to have been complied with;"

b) as regards the obligation to adjust the State's domestic legal system to the provisions of Article 8(2)(h) of the American Convention, in relation to Article 2 thereof, "the State of Costa Rica has not complied" with such obligation "either," as "[e]ven though a favorable opinion on the writ of cassation amendment bill was approved," such opinion "has not been ruled upon by the Legislative Assembly *en bloc*, and it is possible that it will not be submitted to the Assembly." The fact that the second temporary article of the bill makes the coming into force of such law conditional upon "the guaranteed existence of sufficient funds to cover the new work load set upon the Court of Cassation, both in terms of staff [...] and as regards the facilities and material supplies" is cause for concern. They asked that the Court declare that Costa Rica "has not [...] complied with the ruling within the reasonable period prescribed therefor;" and

c) as regards the payment of non-pecuniary damages and costs reimbursement to Mauricio Herrera-Ulloa, the State did comply with such obligation, "other than [as regards] payment of arrearage interest to Mauricio Herrera-Ulloa, which amount is still outstanding." The State failed to notify the victim of the computed amount of interest upon the victim's request for information to the Ministry of the Treasury, merely advising the victim that "the payment order was in the hands of the Laws and Decrees Department of the Presidential Building."

9. The brief of March 22, 2006 whereby, after securing a deadline extension from the President, the Inter-American Commission on Human Rights (hereinafter, "the Inter-American Commission") submitted its observations to the State's report (*supra* Having Seen clause No. 7), as well as to the communications filed by the State on October 19 and November 28, 2005 (*supra* Having Seen clauses No. 4 and No. 5) regarding compliance with the Judgment (*supra* Having Seen clause No. 1), further to the third operative paragraph of the Court's Order of September 12, 2005 (*supra* Having Seen clause No. 2). In such brief, the Inter-American Commission basically stated as follows:

a) that "it has become significantly concerned over the actual fulfillment of the obligations that are still pending compliance;"

b) as regards the nullification of the judgment rendered by the Criminal Court of the First Judicial Circuit of San José on November 12, 1999 and all the measures it orders, "so far, the Supreme Court has not ordered reimbursement of the amount of ¢63,811,000.00" and, therefore, the termination measures ordered by the Court "have not been complied with" and have not been effective in "terminating the effects of the domestic judgment." The State's responsibility in the Inter-American proceeding "is whole," and the State "cannot rely on municipal law provisions or difficulties arising from the separation of powers, or domestic court decisions" to avoid such responsibility and, consequently, it does not consider it necessary for the system's bodies to "rule on a difference of opinion [...] between the agents of the State acting before the Court and the Costa Rican Judiciary," in addition to the fact that "the deadline for compliance with the aforementioned obligations expired over one year ago." "[T]he obligation set forth in the fourth operative paragraph of the Judgment [of the Inter-American Court] has been only partially fulfilled, as the State has not taken the judicial, administrative or any other measures required to reimburse the party that posted the bond, namely the La Nación newspaper, the amount paid to the State." It requested that the Court declare that "compliance with t[he] obligation to nullify [...] paragraphs [three and seven] of the judgment rendered on November 12, 1999 by the Criminal Court of the First Judicial Circuit of San José" "described in items 3 and 7 of paragraph 195 of the Court's Judgment" "is still pending;"

c) regarding the obligation to adjust the domestic legal system to the provisions of Article 8(2)(h) of the American Convention, in relation to Article 2 thereof, "the bill for the enactment of the 'Relaxation of Criminal Cassation Requirements Law' does, to a certain extent, relax [said remedy]" to bring it in line with the aforementioned provision. However, "it has not yet been passed by the Legislative Branch [...] and, therefore, it is a part of a process for compliance 'within a reasonable time period' that is to be monitored by the Court;" and

d) regarding payment of non-pecuniary damages and reimbursement of expenses to Mauricio Herrera-Ulloa, "as recognized by the State in its report [...], it still has not paid the amount of arrearage interest due on account of the delay." The Commission expects this obligation to "be soon discharged" and that payment will cover arrearage interest computed "as from February 5, 2005."

10. The *amici* or *amicus curiae* briefs of Atencio Damas-Vega; José Ruiz-Pérez; Benedicto Arauz-Flores; Errol Agüero-Chacón; Marco Tulio Mora-Padilla; José Armando Jiménez-Carranza; Carlos Alberto Céspedes-León; Fernando Herrera-Carranza; Geovanny Leiva-Lara; Manuel Hernández-Quesada; Rafael Antonio Rojas-Madrigal; José Ruiz-Pérez; Juan Carlos Villalta-Jiménez; Marvin Soto-Sánchez; José Joaquín Bonilla-Madrigal; Benedicto Arauz-Flores; Geovanny Leiva-Lara; José Solano-Soto, Iván Ruiz-Chávez, Francisco Miralles-Lewis, Javier Palma-Salguero, Gerardo León-Redondo and Manuel Hernández-Quesada; Rafael Antonio Rojas-Madrigal; Luis Esteban Medina-Medina; Aylvin Roderik Suazo-Chávez; Carlos Alberto Céspedes-León; José Ruiz-Pérez; Rocío Hidalgo-Parra; and Juan Carlos González-Lavergne, Carlos Alberto Echeverría-Alfaro, Alejandra Echeverría-Alfaro, Juan José Echeverría-Brealey, Roberto Echeverría-Alfaro, José Luís Ocampo-Rojas, Adolfo García-Baudrit, Karen Rokbrand-Fernández, Rosa María Rojas-Gamboa, Roxana Villalobos-Chaves, Franklin Gutiérrez-Rodríguez, Oscar Mata-Muñoz, Carolina Arguedas-Mora, Ronald Odio-Rohrmoser, Ivette Hoffman-Depass, Edgar Odio-Rohrmoser, Fernando Alfaro-Chamberlan, Paola-Montealegre, Anabella Rohrmoser-Zuñiga, Felipe Beeche-Pozuelo, Carlos Morales-Fallas, Juan A. Cadriz, José Alberto Pinto-Monturiol, Alberto Pinto-Gutiérrez, Francisco Quijano-Quirós, Mauricio Pinto-Monturiol, Marisela Meléndez-Miranda and Soprano Padilla-Velásquez.

**CONSIDERING:**

1. That monitoring compliance with its decisions is a power inherent in the judicial functions of the Court.
2. That Costa Rica has been a State Party to the American Convention since November 22, 1969, and that it accepted the binding jurisdiction of the Court on July 2, 1980.
3. That, pursuant to Article 68(1) of the American Convention, "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." For such purpose, States are required to guarantee implementation of the Court's rulings at the domestic level.<sup>1</sup>
4. That, given the final and not-subject-to-appeal nature of the Court's judgments as established in Article 67 of the American Convention, said judgments are to be promptly and fully complied with by the State.

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<sup>1</sup> Cf. *Case of the Five Pensioners*. Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 4, 2006, Considering clause No. 3; *Case of the Constitutional Court*. Compliance with Judgment. Order of the Inter-American Court of Human Rights of February 7, 2006, Considering clause No. 3; and *Case of 19 Tradesmen*. Compliance with Judgment. Order of the Inter-American Court of Human Rights of February 2, 2006, Considering clause No. 3.

5. That the obligation to comply with the judgments of the Court conforms to a basic principle of the law of the international responsibility of States, as supported by international case law, under which States are required to comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke their municipal laws to escape their pre-established international responsibility.<sup>2</sup> The treaty obligations of States Parties are binding on all State powers and organs.

6. That the States Parties to the Convention are required to guarantee compliance with the provisions thereof and their effects (*effet utile*) at the domestic law level. This principle applies not only in connection with the substantive provisions of human rights treaties (*i.e.* those dealing with the protected rights) but also in connection with procedural rules, such as the ones concerning compliance with the decisions of the Court. Such obligations are to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.<sup>3</sup>

7. That those States Parties to the Convention that have accepted the binding jurisdiction of the Court are under a duty to fulfill the obligations set by the Court. In this regard, Costa Rica is required to take such measures as may be required in order to effectively comply with the Judgment of the Court on preliminary objections, merits, reparations and costs of July 2, 2004 (*supra* Having Seen clause No. 1) and its Orders on the status of compliance with said Judgment. This obligation includes the State's duty to report on the measures adopted to comply with such decisions of the Court. Timely fulfillment of the State's obligation to report to the Court on the exact manner in which it is complying with each of the aspects ordered by the latter is essential to evaluate the status of compliance in this case.

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8. That, in monitoring comprehensive compliance with the Judgment on preliminary objections, merits, reparations and costs delivered in the instant case, and after having analyzed the information supplied by the State, the Inter-American Commission and the victim's representatives in their briefs on compliance with the judgment (*supra* Having Seen clauses No. 4, 5, 7, 8 and 9), the Court has verified which aspects of such Judgment are still pending compliance and which ones have been partially complied with.

9. That, in its Order of September 12, 2005 (*supra* Having Seen clause No. 2) the Court verified that Costa Rica has partially complied with its obligations to pay non-pecuniary damages and reimburse expenses, and that only payment of arrearage interest is still pending. Pursuant to the ninth operative paragraph of the

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<sup>2</sup> Cf. *Case of Five Pensioners*. Compliance with Judgment, *supra* note 1, Considering clause No. 7; *Case of the Constitutional Court*. Compliance with Judgment, *supra* note 1, Considering clause No. 5; and *Case of 19 Tradesmen*. Compliance with Judgment, *supra* note 1, Considering clause No. 5.

<sup>3</sup> Cf. *Case of Five Pensioners*. Compliance with Judgment, *supra* note 1, Considering clause No. 8; *Case of the Constitutional Court*. Compliance with Judgment, *supra* note 1, Considering clause No. 6; and *Case of 19 Tradesmen*. Compliance with Judgment, *supra* note 1, Considering clause No. 6.



Judgment of the Court, the State is required to pay arrearage interest accrued from February 6, 2005 to the date of actual payment. As per the information provided to the Court, payment of said interest is still pending. Through its Brief of January 30, 2006 (*supra* Having Seen clause No. 7), the State reported that, on October 20, 2005, it requested that the Minister of the Treasury "take all appropriate measures to secure effective payment of the amount due on account of arrearage interest," totaling ₡ 155,799.00 (one hundred and fifty-five thousand, seven hundred and ninety-nine colones), computed at an arrearage interest rate of 2% p.a. from February 6, 2005 to August 24, 2005. In its brief of February 28, 2006 (*supra* Having Seen clause No. 8) the representatives confirmed that the State has not yet made payment of such arrearage interest, further indicating that it intentionally failed to advise the victim of the amount of interest payable, merely informing that "the payment order was already [ready]." Consequently, it is necessary for the State to submit updated information on compliance with this obligation.

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10. That, as regards the State's obligation to nullify the judgment rendered on November 12, 1999, whereby Mauricio Herrera-Ulloa was criminally convicted, and all the measures it orders, in its Order of September 12, 2005 (*supra* Having Seen clause No. 2), the Court requested the parties to submit information and observations in order to obtain clear information regarding which of the obligations defined in the domestic judgment and referred to in paragraph 195<sup>4</sup> of the Court's Judgment (*supra* Having Seen clause No. 1) had actually been nullified. The Court noted that the ruling of the Criminal Court of the First Judicial Circuit of San José of August 24, 2004 apparently nullifies the sections of the aforementioned domestic criminal judgment referred to in paragraphs 195(1), (2), (4), (5), (6) and (8) of the Court's Judgment.

11. That, based on the information supplied by the parties (*supra* Having Seen clauses No. 4, 5, 7, 8 and 9), Costa Rica has complied with its obligation to nullify the measures ordered in the domestic judgment of November 12, 1999 and referred to in paragraph 195(1), (2), (4), (5), (6) and (8) of the Court's Judgment.

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<sup>4</sup> The aforementioned paragraph 195 of the Judgment of the Inter-American Court stated that "[t]he effects of the [domestic] judgment [of November 12, 1999] are as follows: 1) Mr. Mauricio Herrera Ulloa was declared guilty on four counts of the crime of publishing offenses constituting defamation; 2) the penalty imposed on Mr. Herrera Ulloa consisted of 40 days' fine per count, at ₡2,500.00 (two thousand five hundred colones) a day, for a total of 160 days' fine. In application of the rule of *concurso material* (where a number of related crimes are combined to reduce the penalty that would have been required had each separate crime carried its own weight) "the fine [wa]s reduced to be three times the maximum imposed;" in other words, the fine was reduced from 160 to 120 days, for a total of ₡300,000.00 (three hundred thousand colones); 3) in the civil award, Mr. Mauricio Herrera Ulloa and the newspaper "La Nación," represented by Mr. Fernán Vargas Rohmoser, were held jointly and severally liable and ordered to pay ₡60,000,000.00 (sixty million colones) for the moral damages caused by the articles carried in "La Nación" on March 19, 20, and 21, 1995, and then again on December 13, 1995; 4) Mr. Mauricio Herrera Ulloa was ordered to publish the "Now, Therefore" portion of the judgment in the newspaper "La Nación," in the section called "El País," in the same print face used for the articles about which the criminal complaint was filed; 5) "La Nación" was ordered to take down the link at the *La Nación Digital* website on the internet, between the surname Przedborski and the articles about which the criminal complaint was filed; 6) "La Nación" was ordered to create a link at the *La Nación Digital* website on the internet between the articles about which the complaint was filed and the operative part of the judgment; 7) Mr. Mauricio Herrera Ulloa and the newspaper "La Nación," represented by Mr. Fernán Vargas Rohmoser, were ordered to pay court costs in the amount of ₡1,000.00 (one thousand colones) and personal damages totaling ₡3,810,000.00 (three million eight hundred ten thousand colones); and 8) Mr. Mauricio Herrera Ulloa's name was entered into the Judiciary's Record of Convicted Felons."

12. That in its Judgment of July 2, 2004 (*supra* Having Seen clause No. 1), the Court ruled that the State is to nullify the domestic criminal judgment delivered on November 12, 1999 "and all the measures it ordered, including any involving third parties."

13. That, in paragraph 195 of the Judgment of July 2, 2004 (*supra* Having Seen clause No. 1), the Court ruled that the State is to nullify, *inter alia*, the civil award of non-pecuniary damages jointly and severally payable by Mauricio Herrera-Ulloa and the "La Nación" newspaper, in the amount of ₡60,000,000.00 (sixty million colones) for the moral damages caused; and to nullify the award of court costs in the amount of ₡1,000.00 (one thousand colones) and personal damages in the amount of ₡3,810,000.00 (three million, eight hundred and ten thousand colones) against Mauricio Herrera-Ulloa and the "La Nación" newspaper.<sup>5</sup>

14. That, based on the information provided to the Court, on June 25, 2004, the First Civil Large Claims Court of San José enforced the civil damages award and the award of court costs and personal damages under the domestic criminal judgment of November 12, 1999. Said civil court endorsed to Przedborski the certificate of deposit in the amount of ₡63,811,000.00 (sixty three million, eight hundred and eleven thousand colones) that La Nación had deposited in the context of the civil enforcement of said domestic judgment.

15. That both the State (*supra* Having Seen clauses No. 4, 5 and 7(a)) and the victim's representatives (*supra* Having Seen clause No. 8(a)) have reported to the Court on the different writs and appeals and the proceeding instituted before the domestic courts in order to have such money reimbursed to La Nación S.A. As per the information submitted to the Court, La Nación S.A. has not yet been reimbursed for the ₡63,811,000.00 (sixty three million, eight hundred and eleven thousand colones) that it deposited with the First Civil Large Claims Court of San José in the context of the civil proceeding for the enforcement of the domestic judgment of November 12, 1999.

16. That, given the difficulties that have hindered compliance with the obligation to nullify the civil damages award and the award of court costs and personal damages made in the domestic criminal judgment of September 12, 1999, the Court considers it worth noting that, in its Judgment (*supra* Having Seen clause No. 1), it ruled that said domestic judgment is in conflict with the American Convention, thus finding that Costa Rica "must take all necessary judicial, administrative and any other measures" to nullify and abolish any and all effects of said domestic judgment. It should be noted that the States Parties' obligations under the Convention are binding on all branches of government and organs of the State. Therefore, given that a State court enforced two of the measures provided for in the aforementioned domestic judgment, it is the State's duty to adopt all measures required to comply with the orders of this Court, which should be done on its own motion and in a period of six months as from the date of notice of the Judgment of the Court. Accordingly, it is necessary for the State to submit updated information on compliance with this specific obligation.

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<sup>5</sup> Aspects of the domestic judgment of November 12, 1999 referred to in paragraph 195(3) and (7) of the Judgment of the Inter-American Court. *Cf. supra* note 4.

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17. That, as regards the obligation to adjust its domestic legal system to the provisions of Article 8(2)(h) of the American Convention, in relation to Article 2 thereof, within a reasonable period of time, the Court notes that, as far as the developments in connection with bill No. 15.856, for the enactment of the "Relaxation of Criminal Cassation Requirements Law" are concerned, on October 4, 2005 such bill was approved upon the favorable unanimous opinion of the Permanent Commission on Legal Affairs of the Legislative Assembly (*supra* Having Seen clause No. 7(b)). Moreover, the Inter-American Commission stated that said bill "does, to a certain extent, relax [said remedy]" to bring it in line with Article 8(2)(h) of the American Convention, and that it is a part of a "process for compliance 'within a reasonable time period' that is to be monitored by the Court" (*supra* Having Seen clause No. 9). The victim's representatives' view is that the State has not complied with this obligation; they noted that the bill has not been voted on by the Legislative Assembly *en bloc*, and expressed their concern in connection with the provisions of the second temporary article of the bill (*supra* Having Seen clause No. 8).

18. That, in order to assess whether the adjustment of the domestic laws is taking place within a reasonable period of time, the Court has deemed it necessary for Costa Rica to provide updated information on any domestic measures adopted therefor, including developments in connection with the enactment of the bill into a law and the administrative and any other measures it may have adopted in that regard. On this subject, the Court considers it worth noting that about two years have elapsed since the State was notified of the Judgment, and pointing out that such adjustment to conform to the Convention is particularly important at the Costa Rican legal level.

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19. That the Court has verified Costa Rica's partial compliance with its obligation to nullify the judgment rendered on November 12, 1999 by the Criminal Court of the First Judicial Circuit of San José (*fourth operative paragraph of the Judgment of July 2, 2004*). The State has complied with its obligation to nullify those effects of the domestic judgment of November 12, 1999 that were referred to in paragraph 195(1), (2), (4), (5), (6) and (8) of the Court's Judgment; this means that it has nullified the following effects: 1) Mauricio Herrera-Ulloa was declared guilty on four counts of the crime of publishing offenses constituting defamation; 2) the penalty imposed on Mauricio Herrera-Ulloa of 120 days' fine, for a total of ₡300,000.00 (three hundred thousand colones); 4) Mauricio Herrera-Ulloa was ordered to publish the "Now, Therefore" portion of the judgment in the newspaper "La Nación," in the section called "El País," in the same print face used for the articles about which the criminal complaint was filed; 5) "La Nación" was ordered to take down the link at the *La Nación Digital* website on the Internet, between the surname Przedborski and the articles about which the criminal complaint was filed; 6) "La Nación" was ordered to create a link at the *La Nación Digital* website on the Internet between the articles about which the complaint was filed and the operative part of the judgment; and 8) Mauricio Herrera-Ulloa's name was entered into the Judiciary's Record of Convicted Felons.

20. That it is the Court's view that it is essential for the State to provide it with up-to-date information on the following aspects, compliance with which is still pending:

- a) nullify the November 12, 1999 judgment of the Criminal Court of the First Judicial Circuit of San José and all the measures it orders (*fourth operative paragraph of the Judgment of July 2, 2004*). The State has not complied with its obligation to nullify the points of the domestic judgment of November 12, 1999 referred to in paragraph 195(3) and (7) of the Court's Judgment, *i.e.* it has not nullified the following points: 3) in the civil award, Mauricio Herrera-Ulloa and newspaper "La Nación," represented by Fernán Vargas-Rohrmoser, were held jointly and severally liable and ordered to pay ₡60,000,000.00 (sixty million colones) for the moral damages caused by the articles carried in "La Nación" on March 19, 20 and 21, 1995 and then again on December 13, 1995; and 7) Mauricio Herrera-Ulloa and the newspaper "La Nación," represented by Fernán Vargas-Rohrmoser, were ordered to pay court costs in the amount of ₡1,000.00 (on thousand colones) and personal damages totaling ₡3,810,000.00 (three million eight hundred and ten thousand colones);
- b) within a reasonable period, adjust its domestic system to conform to the provisions of Article 8(2)(h) of the American Convention, in relation to Article 2 thereof (*fifth operative paragraph of the Judgment of July 2, 2004*); and
- c) pay interest accrued on the payment of the compensation for non-pecuniary damages and the reimbursement of expenses to Mauricio Herrera-Ulloa after expiration of the term prescribed in the Judgment (*sixth, seventh and ninth operative paragraphs of the Judgment of July 2, 2004*).

21. That the Court will consider the general status of compliance with the Judgment on preliminary objections, merits and reparations of July 2, 2004 once it is provided with the relevant information on the pending reparations.

**THEREFORE:**

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

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

**DECLARES:**

1. That, in accordance with Considering clauses No. 11 and 19 of this Order, the State has partially complied with its obligation to nullify the Judgment issued by the Criminal Court of the First Judicial Circuit of San José on November 12, 1999 (*fourth operative paragraph of the Judgment of July 2, 2004*).
2. That it will keep open the proceeding for monitoring compliance with the points pending compliance in the instant case, namely:

- a) to nullify the November 12, 1999 judgment of the Criminal Court of the First Judicial Circuit of San José and all the measures it orders (*fourth operative paragraph of the Judgment of July 2, 2004*), pursuant to Considering clauses No. 11 to 16 and 20(a) of this Order;
- b) to adjust its domestic legal system to the provisions of Article 8(2)(h) of the American Convention on Human Rights, in relation to Article 2 thereof (*fifth operative paragraph of the Judgment of July 2, 2004*); and
- c) to pay interest accrued on account of the payment of the compensation for non-pecuniary damages and reimbursement of expenses to Mauricio Herrera-Ulloa after expiration of the term prescribed in the Judgment (*sixth, seventh and ninth operative paragraphs of the Judgment of July 2, 2004*).

**AND DECIDES:**

1. To call upon the State to adopt such measures as may be necessary to promptly and effectively comply with the pending measures ordered by the Tribunal in the Judgment on preliminary objections, merits and reparations, pursuant to Article 68(1) of the American Convention on Human Rights.
2. To request that, by January 19, 2007, the State submit to the Inter-American Court of Human Rights a report specifying such measures as may have been adopted to comply with the reparations ordered by this Court and which are still pending fulfillment, as established in Considering clauses No. 11 to 18 and 20 and the declarative paragraphs of this Order.
3. To call upon the representatives of the victim and the Inter-American Commission on Human Rights to submit their observations to the State's report referred to in the preceding operative paragraph, within a period of four and six weeks, respectively, as from the date of receipt of the report.
4. To continue monitoring those sections of the Judgment on preliminary objections, merits and reparations of July 2, 2004 that are still pending compliance.
5. To request that the Secretariat of the Court notify this Order to the Inter-American Commission on Human Rights, the representatives of the victim and the State.

Sergio García-Ramírez  
President

Alirio Abreu-Burelli

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri  
Secretary

So ordered,

Sergio García-Ramírez  
President

Pablo Saavedra-Alessandri  
Secretary