

**ANNUAL REPORT OF THE
INTER-AMERICAN COURT OF
HUMAN RIGHTS**

2010



ORGANIZATION OF AMERICAN STATES

INTER-AMERICAN COURT OF HUMAN RIGHTS

**SAN JOSÉ, COSTA RICA
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I. ORIGIN, STRUCTURE AND JURISDICTION OF THE COURT

A. ESTABLISHMENT

The Inter-American Court of Human Rights (hereinafter "the Court or "the Inter-American Court") was created on July 18, 1978 by the entry into force of the American Convention on Human Rights or the "Pact of San José, Costa Rica" (hereinafter "the Convention" or "the American Convention"), when the eleventh instrument of ratification by a Member State of the Organization of American States (hereinafter "the OAS" or "the Organization") was deposited. The Convention was adopted at the Inter-American Specialized Conference on Human Rights, which was held in San José, Costa Rica, from November 7 to 22, 1969.

The two organs for the protection of human rights provided for under Article 33 of the American Convention are the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and the Court. The function of these organs is to ensure compliance with the obligations imposed by the Convention.

B. ORGANIZATION

According to the Statute of the Court (hereinafter "the Statute"), the Court is an autonomous judicial institution with its seat in San Jose, Costa Rica; its purpose is the interpretation and application of the Convention

The Court consists of seven judges, nationals of OAS Member States, who are elected in an individual capacity "from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions, in conformity with the law of the State of which they are nationals or of the State that proposes them as candidates" (Article 52 of the Convention). Article 8 of the Statute provides that the Secretary General of the Organization of American States shall request the States Parties to the Convention (hereinafter "States Parties") to submit a list of their candidates for the position of judge of the Court. In accordance with Article 53(2) of the Convention, each State Party may propose up to three candidates, nationals of the State that proposes them or of any other OAS Member State.

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. Vacancies on the Court caused by death, permanent disability, resignation or dismissal shall be filled, if possible, at the next session of the OAS General Assembly (Article 6(1) and 6(2) of the Statute).

Judges shall be 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 (Article 54(3) of the Convention).

States parties to a case are represented in the proceedings before the Court by the agents they designate and the Commission is represented by the delegates that it appoints for this purpose. Under the 2001 reform to the Rules of Procedure, the alleged victims or their representatives may submit autonomously their pleadings,

motions and evidence, and also take part in the different proceedings and procedural stages before the Court.

The judges are at the disposal of the Court, which holds as many regular sessions a year as may be necessary for the proper discharge of its functions. They do not, however, receive a salary for the performance of their duties, they merely receive an honorarium for each day they session and an emolument when they act as the rapporteur. Currently, the Court holds four regular sessions each year. In addition, special sessions may be called by the President of the Court or at the request of the majority of the judges. Although the judges are not required to reside at the seat of the Court, the President shall render his or her service on a permanent basis (Article 16 of the Statute).

The President and Vice President are elected by the judges for a period of two years and may be re-elected (Article 12 of the Statute).

The Secretariat functions under the direction of a Secretary (Article 14 of the Statute) and a Deputy Secretary (Article 14 of the Statute).

C. STATES PARTIES

Twenty-one out of the thirty four member States that make up the OAS have accepted the contentious jurisdiction of the Court, namely: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Surinam, Uruguay and Venezuela

The status of ratifications of and accessions to the Convention is included at the end of this report (**Annex 79**).

D. COMPOSITION

The following judges, listed in order of precedence, sat on the Court in 2010:

Diego García-Sayán (Peru), President;
Leonardo A. Franco (Argentina), Vice President;
Manuel E. Ventura Robles (Costa Rica);
Margarette May Macaulay (Jamaica),
Rhady's Abreu Blondet (Dominican Republic),
Alberto Pérez Pérez (Uruguay), and
Eduardo Vio Grossi (Chile).

The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

In 2010, six judges *ad hoc*¹ served on the Court in seven contentious cases.

¹ The judges *ad hoc* were as follows: Augusto Fogel Pedrozo (Xákmok Kásek Indigenous Community v. Paraguay), Roberto de Figueiredo Caldas (Gomes Lund *et al.* v. Brazil), Alejandro Carlos Espinosa (Rosendo Cantú *et al.* v. Mexico and Inés Fernández Ortega v. Mexico), María Eugenia Solís García (Chitay Nech *et al.* v. Guatemala), Eduardo Ferrer Mac-

E. PERIOD OF SESSIONS

In the periods of sessions, the Court carries out several activities, including, hearings and solutions on contentious cases, provisional measures and procedures on monitoring compliance with judgments, as well as the delivery of judgments. Moreover, the Court considers, among other things, different proceedings pending before it and analyzes the different reports presented by the Inter-American Commission, the representatives of the alleged victims or the alleged victims and the States concerned in the matters in which provisional measures have been adopted or in the cases that are subject to the procedure on monitoring compliance with the Judgment. In addition, the Court considers administrative matters.

The exercise of the functions of the Inter-American Court, in its periods of sessions, includes proceedings characterized by an important and dynamic participation of the parties to the case and matters brought before the Court. Said participation is essential in terms of effectiveness of the measures and obligations ordered by the Tribunal and sets out the guidelines for the progress and duration of the proceedings.

E.1 Public hearings on contentious cases

In the exercise of the contentious jurisdiction of the Tribunal, the preparation of a judgment comprises several stages, both written and oral phases. The second stage, essentially oral, is reached at the public hearing on each case, which usually lasts, approximately, a day and a half. At said hearing, the Commission puts forward the arguments of the report to which article 50 of the Convention refers and the arguments of the presentation of the case before the Court, as well as any other matter it considers relevant for the solution of the case. Next, the judges of the Tribunal listen to the expert witnesses, the witnesses and the alleged victims who had been summoned by means of an Order and who are questioned by the parties and, if applicable, by the judges. Then, the Presidency gives the floor to the alleged victims or their representatives and the respondent State in order for them to put forward their arguments on the merits of the case. Next, the Presidency provides the alleged victims or their representatives and the State, respectively, with the possibility of filing a reply and rejoinder. Once the arguments are put forward, the Commission presents its final observations, after which the judges make the final questions to the parties.

In 2010, the Court conducted 11 public hearings on contentious cases. At these hearings, the Court received the oral statements of 15 alleged victims, 13 witnesses and 21 expert witnesses, amounting to a total of 49 statements. It is worth emphasizing that each one of these acts and the corresponding questions usually last, approximately, an hour and a half.

Gregor Poisot (Cabrera García and Montiel Flores v. Mexico) and Diego Rodríguez Pinzón (Salvador Chiriboga v. Ecuador). According to what was determined in Advisory Opinion OC-20/09 regarding the legal precept of the *ad hoc* judge, the new Rules of Procedure of the Court establishes that *ad hoc* judges may only be appointed in cases originated in inter-state communications (*infra* *). Therefore, in the cases concerning individual petitions that were submitted after January 1, 2010 - date of the entry into force of the current Rules of Procedure of the Court- the legal precept of the *ad hoc* judge would not longer exist.

E.2 Hearings and orders on provisional measures

The Tribunal goes through an intense and constant procedure to monitor compliance with the provisional measures ordered in the matters or cases where there is a situation of extreme gravity and urgency in order to avoid irreparable damage to persons. Hence, taking into account the reports forwarded by the States and the corresponding observations submitted by the representatives of the beneficiaries and the Inter-American Commission, the Court analyzes the relevance of convening the parties to a hearing, at which reports on the status of the measures adopted shall be presented, or issuing orders regarding the status of compliance with the measures ordered.

At a hearing on provisional measures, which may last, approximately, two hours, the representatives of the beneficiaries and the Inter-American Commission are given the possibility of proving, if applicable, the persistence of the situations that gave rise to the adoption of the provisional measures; whereas the State must present information on the measures adopted in order to overcome these situations of extreme gravity and urgency and avoid irreparable damage to persons and, in the best case scenario, prove that such situations do no longer exist. At this hearing, the petitioners of the provisional measures present their arguments regarding the fulfillment of the three conditions before mentioned; then comes the Inter-American Commission, as the case may be; and finally comes the State which presents the corresponding observations. The representatives and the Commission as well as the State are given the possibility of filing a reply and a rejoinder, respectively. Finally, the judges may question the parties involved at the hearing.

It is worth emphasizing that, in the context of said hearings, which may be public or private, the Tribunal tries to placate the situation and, therefore, does not limit itself to take note of the information presented by the parties, but, under the principles to which it is adhered as a human rights court, among other aspects, suggests some alternatives to solve the case, calls the attention towards non-compliances that are defined by lack of willingness, promotes the preparation of compliance schedules for the parties involved and even, offers its premises for the parties to hold conversations, which, on many occasions, are very difficult to arrange with the State involved.

In 2010, the Court conducted 10 hearings and issued 36 orders on provisional measures.

E.3 Hearings and orders on monitoring compliance with judgments

The purpose of the procedure to monitor compliance with the judgments of the Court is to encourage compliance with the decisions taken by the Court to ensure the enforcement and effectiveness of the principles underlying the Inter-American System of Human Rights and look for situations to facilitate compliance with the measures of reparations ordered by the Court.

To achieve this purpose, the Tribunal, when it deems appropriate, may issue orders or convene the State and the representatives of the victims to a hearing in order to monitor compliance with its decisions and to hear the opinion of the Commission. Moreover, in some special cases, the Court, in order to assist States to comply with the reparations ordered by it, has set down guidelines, with very clear and detailed criteria, for the manner in which the reparations ordered may be complied with.

The Court has conducted hearings on the procedure to monitor compliance with the judgments since 2007. Since their implementation, favorable results were observed which are outlined by the significant progress made in the compliance with the reparations ordered by the Tribunal. This has been recognized by the OAS General Assembly in its resolution AG/RES. 2587 (XL-O/10) "Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights" of June 8, 2010, in which it asserts that "the private hearings held on the monitoring of compliance with its judgments have been important (...) and have yielded positive results".

At said hearings, which may last approximately two hours, the State presents the progress made in the compliance with the obligations ordered by the Tribunal in the judgments concerned and the representatives of the victims and the Inter-American Commission submit their observations to the status of compliance in question. The parties are also provided with the possibility of presenting a reply and a rejoinder. Finally, the judges may question the parties involved at the hearing.

Again, in the context of said hearings, which may be public or private, the Tribunal tries to placate the situation and, therefore, does not limit itself to take note of the information presented by the parties, but, under the principles to which it is adhered as a human rights court, among other aspects, suggests some alternatives to solve the case, calls the attention towards non-compliances that are defined by lack of willingness, promotes the preparation of compliance schedules for the parties involved and even, offers its premises for the parties to hold conversations, which, on many occasions, are very difficult to arrange with the State involved.

In 2010, the Court conducted 22 hearings and issued 40 orders on supervision of provisional measures.

E.4 Delivery of judgments

This study entails the deliberation by the judges during the period of sessions in which the delivery of the Judgment has been scheduled. The deliberation process may last many days during a period of session and even, due to its complexity, may be suspended and resumed in a subsequent period of session. At this stage, the draft judgment, which is previously revised by the judges, is read and a debate is held to discuss the contested aspects, that is to say, the different legal decisions are broadly and strenuously taken into account. Moreover, the Court conducts a detailed study on the evidence furnished in the case file and the arguments put forward by the parties at all the stages of the proceeding.

If the judges request a modification of some aspect of the draft judgment, a new draft is immediately prepared which is subjected to the judges' consideration and final opinions. Hence, within the framework of such deliberation, the different paragraphs of the judgments are discussed and approved until the operative paragraphs of the Judgment, which are subject to the final opinion of the judges of the Court. In some cases, the judges may present dissenting or concurring opinions to the Judgment, which shall accompany it. The result of such deliberation is the final judgment of the case, which is not subject to appeal.

In 2010, the Court held four Periods of Regular Sessions at its seat in San Jose, Costa Rica and two Periods of Special Sessions, the first one in Lima, Peru and the second one in Quito, Ecuador.

It follows a summary of the activities carried out by the Court in said periods of sessions, which are broadly discussed in chapter II of this report.

A. Sessions held at the seat of the Court, San Jose, Costa Rica

- **86 Period of Regular Sessions.** This period of session was held from January 25 to February 4, 2010. In said period of sessions, the Court conducted two public hearings on contentious cases, nine private hearings and one public hearing on the procedure to monitor compliance with the judgment and six public hearings on provisional measures. Moreover, it issued seven orders on provisional measures, one order in relation to the processing of a case and five orders on monitoring compliance with the judgment.

- **87 Period of Regular Sessions.** This period of session was held from May 17 to 28, 2010. During this period of sessions, the Court conducted two public hearings on contentious cases, two public hearings on provisional measures and three private hearings on monitoring compliance with the judgment. Moreover, it delivered two judgments regarding contentious cases, both on preliminary objections, merits, reparations and legal costs; it issued five orders on provisional measures and eight orders on monitoring compliance with the judgment.

- **88 Period of Regular Sessions.** This period of session was held from August 23 to September 4, 2010. During this period of sessions, the Court conducted two public hearings on two contentious cases, one public hearing on provisional measures and two private hearings on monitoring compliance with the judgment. Moreover, it delivered four judgments regarding contentious cases; it issued five orders on provisional measures, one order on a request to access the Victims' Legal Assistance Fund and eight orders on monitoring compliance with the judgment.

- **89 Period of Regular Sessions.** This period of session was held from November 21 to 27, 2010. During this period of sessions, the Court delivered three judgments regarding contentious cases, all of them on preliminary objections, merits, reparations and legal costs; it issued nine orders on provisional measures and ten orders on monitoring compliance with the judgment.

B. 41 Period of Special Sessions held in Lima, Peru

This period of session was held from April 12 to 16, 2010. During this period of sessions, the Court conducted three public hearings on contentious cases and issued one order on provisional measures.

C. 42 Period of Special Sessions held in Quito, Ecuador

This period of session was held from November 15 to 19, 2010. During this period of sessions, the Court conducted two public hearings on contentious cases, one public hearing on provisional measures and issued four orders on monitoring compliance with the judgment.

F. JURISDICTION

According to the Convention, the Court exercises contentious functions, which include the function of monitoring the judgments it delivers, and also advisory functions. In addition, the Court can order provisional measures in cases that it is examining or with regard to matters that have not yet been submitted to its consideration as contentious cases.

1. Contentious function: this function enables the Court to determine whether a State has incurred international responsibility for the violation of any of the rights embodied or established in the American Convention or in other human rights treaties applicable to the inter-American system, because it has failed to comply with its obligation to respect and ensure those rights, and monitors compliance with the measures required in its orders.

According to Article 61(1) of the Convention “[o]nly the States Parties and the Commission shall have the right to submit a case to the Court.”

Article 63(1) of the Convention contains the following provision concerning the Court's judgments:

If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

According to the second paragraph of Article 68 of the Convention: “[t]hat part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the State.”

The judgments handed down by the Court are “final and not subject to appeal.” In “case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment” (Article 67 of the Convention). The States Parties “undertake to comply with the judgment of the Court in any case to which they are parties” (Article 68 of the Convention).

The cases decided by the Inter-American Court usually become exemplary cases and a source of doctrinal and jurisprudential inspiration for national courts, because they refer to crucial matters that require deciding in light of the American Convention. In this regard, the Court's rulings have an impact that exceeds the precise limits of each specific case, because the case law that is being developed through the successive interpretations has an effect in the countries of the region through law reform or local case law that incorporate the standards established by the Inter-American Court into domestic law. This can be observed, for example, in the Rules of Procedure of the Inter-American Commission, which establish that cases shall be submitted to the Court when – among other circumstances – there is a “need to

develop or clarify the case law of the system” or the cases could have a “future [positive] effect on the laws of the Member States.”

As can be seen, the system presumes that a coherent interpretation of the American Convention for all the countries of the region is an essential condition for the effective exercise of human rights throughout the American hemisphere.

* * *

This year 16 contentious cases were lodged before the Court,² making 2010 the year in which most cases have been submitted to the Court’s consideration.

The Court delivered 9 judgments.³ In seven of them it ruled on preliminary objections, merits, reparations and costs together, and in two others it ruled on merits and the corresponding reparations. The Court decided less contentious cases in 2010 because the composition of the Court was renewed that year. Hence, in 2009, the Court accorded priority to deciding contentious cases in order to avoid a two-fold composition of the Court, in keeping with the provisions of Article 54(3) of the American Convention. As a result, during 2010, the Court focused on hearing new contentious cases, most of which were at the preliminary processing stage. Furthermore, the Court had to reschedule its forty-second special session owing to the events that took place in Ecuador towards the end of September 2010, which obliged the Court to suspend that special session and to deal with the matters that would have been discussed at that time during one of the weeks of its last regular session. This meant that the Court was in session for one week less in 2010.

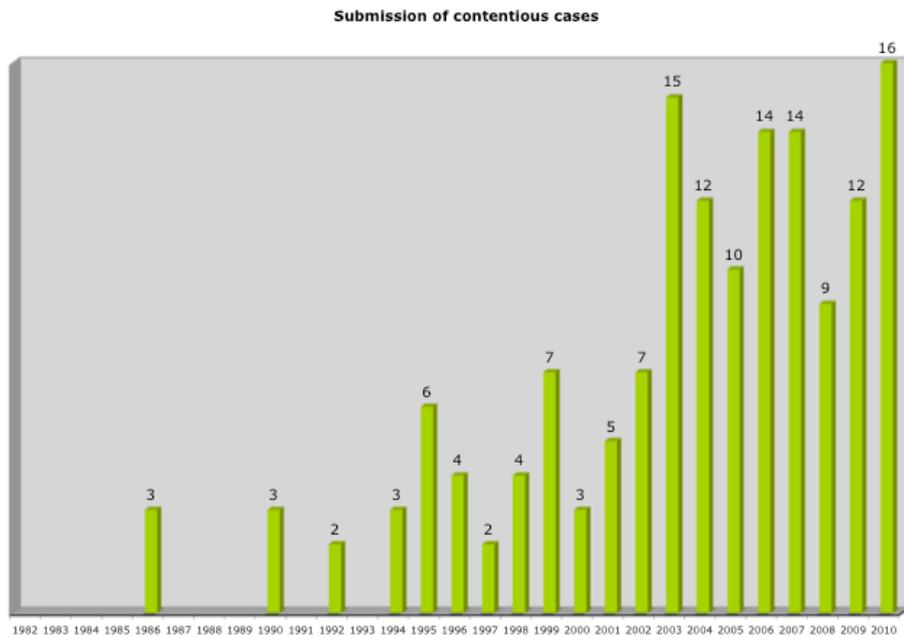
At the end of 2010, the Court had 21 cases pending a decision; of these, 13 were at the stage of initial processing, three at the stage of preliminary objections and possible merits, reparations and costs, one of possible merits, reparations and costs, and one at the stage of reparations and costs.

The Court has made a considerable effort to reduce the duration of the cases before it. The principle of “reasonable time” that derives from the American Convention and from Court’s consistent case law is applicable not only to the domestic proceedings

² The following contentious cases were submitted to the Court’s consideration:: Case of Abril Alosilla *et al.* v. Peru, Case of Gelman v. Uruguay, Case of Vera Vera *et al.* v. Ecuador, Case of Alicia Barbani Duarte, María del Juerto Breccia *et al.* (Group of Depositors of the Banco de Montevideo) v. Uruguay, Case of Torres *et al.* v. Argentina, Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, Case of Narciso González Medina *et al.* v. Dominican Republic, Case of Jorge Fernando Grande v. Argentina, Case of Gregoria Herminia Contreras *et al.* v. El Salvador, Case of the Barrios Family v. Venezuela, Case of Karen Atala and daughters v. Chile, Case of Néstor José and Luis Uzcátegui *et al.* v. Venezuela, Case of Raúl José Díaz Pena v. Venezuela, Case of Milagros Fornerón and Leonardo Aníbal Fornerón v. Argentina, Case of the Río Negro Massacre v. Guatemala, Case of Fontevecchia and D’Amico v. Argentina.

³ The Court delivered judgment in the following cases: Chitay Nech *et al.* v. Guatemala (preliminary objections, merits, reparations and costs), Manuel Cepeda Vargas v. Colombia (preliminary objections, merits, reparations and costs), Xákmok Kásek Indigenous Community v. Paraguay (merits, reparations and costs), Fernández Ortega v. Mexico (preliminary objection, merits, reparations and costs), Rosendo Cantú *et al.* v. Mexico (preliminary objection, merits, reparations and costs), Ibsen Cárdenas and Ibsen Peña v. Bolivia (merits, reparations and costs), Cabrera García and Montiel Flores v. Mexico (preliminary objection, merits, reparations and costs), Gomes Lund *et al.* v. Brazil (preliminary objections, merits, reparations and costs), Vélez Looor v. Panama (preliminary objections, merits, reparations and costs) and Gomes Lund *et al.* v. Brazil (preliminary objections, merits, reparations and costs).

within each State Party, but also to the international courts or organs whose function is to decide petitions on human rights violations. From 2006 to 2010, the average duration of the proceedings for a contentious case before the Court has been 17.4 months. This average is calculated from the date the case is submitted to the Court until the date that the Court hands down judgment on reparations.



1.a Monitoring compliance with judgment

The effective implementation of the Court's decisions is the key element of the real exercise and effectiveness of the inter-American system without which the purpose for which it was created is rendered illusory. According to the provisions of Article 67 of the American Convention, States must comply promptly and fully with the Court's judgment. Furthermore, Article 68(1) of this instrument stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties. These provisions oblige the State to use all necessary means and mechanisms to ensure that the Court's decisions are implemented so that the victims of a violation declared by the Court can finally see their rights redressed.

In this regard, the Inter-American Court has considered that real compliance with its decisions is an integral part of the right of access to justice, and that it is "necessary that effective mechanisms exist to execute the decisions or judgments, so that the

rights that have been declared are truly protected.”⁴ To achieve this objective, among other measures, the Court monitors compliance with its judgments.

Monitoring compliance with the Court’s decisions implies that it must first request information from the State on the actions taken to comply with the said decisions, 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 it ordered, provide guidance for the State’s actions to that effect, and fulfill its obligation to inform the General Assembly, in the terms of Article 65 of the Convention. Also, when pertinent, the Court may convene the State and the representatives of the victims to a hearing to monitor compliance with its decisions and, in the course of this hearing, take note of the opinion of the Commission. The procedure for monitoring compliance with the Court’s judgments and other decisions is regulated by Article 69 of the Court’s new Rules of Procedure.

In light of the above, and exercising the powers inherent in its jurisdictional function of monitoring compliance with its judgments, the Court issued 40 orders of this nature, and held one public⁵ and 14 private hearings on monitoring compliance with judgment with regard to 22 cases.⁶ This is because, in 2010, the Court commenced the practice of holding private hearings on monitoring judgments with regard to any one State in relation to more than one case, provided the cases had at least one similar measure of reparation pending compliance. Thus, in 2010, the Court heard the arguments of the victims’ representatives, the Inter-American Commission, and the State of Colombia at a private hearing in order to obtain information on compliance with the measures of reparation ordered concerning medical and psychological attention in favor of the victims and their next of kin in the following cases: 19 Tradesmen, Mapiripán Massacre, Gutiérrez Soler, Pueblo Bello Massacre, La Rochela Massacre, Ituango Massacres, Escué Zapata and Valle Jaramillo.

At the end of 2010, the Court was monitoring compliance with judgment in 111 contentious cases. Monitoring compliance with its judgment has become one of the most demanding activities of the Court, because the number of active cases increases considerably each year. The reasons for this include the facts that: the States have been developing domestic mechanisms to comply with the judgments of the Court; the detailed and prompt monitoring that the Court carries out of each of the reparations ordered and, owing to the characteristics of the reparations ordered by the Court, most of them cannot be complied with immediately since the Court does not only order measures of a compensatory nature, but, in most cases, has ordered measures relating to the different forms of redress. These include:

⁴ *Case of Baena Ricardo et al. v. Panama*. Competence. Judgment of November 28, 2003. Series C No. 104, para. 72.

⁵ *García Prieto et al. v. El Salvador*.

⁶ Cases: *Serrano Cruz Sisters v. El Salvador*, *Las Palmeras v. Colombia*, *Apitz Barbera et al. (“First Court of Administrative Law) v. Venezuela*, *El Amparo v. Venezuela*, *Barrios Altos v. Peru*, *Cesti Hurtado v. Peru*, *Moiwana Community v. Suriname*, *Acevedo Jaramillo et al. v. Peru*, *De la Cruz Flores v. Peru*, *19 Tradesmen v. Colombia*, *Mapiripán Massacre v. Colombia*, *Gutiérrez Soler v. Colombia*, *Pueblo Bello Massacre v. Colombia*, *La Rochela Massacre v. Colombia*, *Ituango Massacres v. Colombia*, *Escué Zapata v. Colombia*, *Valle Jaramillo et al. v. Colombia*, *Yatama v. Nicaragua*, *Heliodoro Portugal v. Panama*, *Saramaka People v. Suriname* and *Vargas Areco v. Paraguay*.

1. **Measures of restitution.** These measures entail the re-establishment, insofar as possible, of the situation that existed before the violation occurred. Restitution as a form of reparation includes measures such as: (a) re-establishment of the liberty of those detained illegally; (b) return of property that has been seized illegally; (c) return to the place of residence from which the victim was displaced; (d) reinstatement in employment; (e) annulment of judicial, administrative, criminal or police records and cancellation of the corresponding entries, and (f) return, demarcation and award of title in the case of the traditional territory of the indigenous communities in order to protect their communal property.

2. **Measures of rehabilitation.** These are measures designed to provide the necessary medical and psychological care to treat the physical and mental health of the victims, to be provided free of charge and immediately, including medication.

3. **Measures of satisfaction.** The purpose of the measures of satisfaction is to repair the non-pecuniary damage (suffering and hardship caused by the violation, as well as harm to values that have great significance for the individual and any alteration of a non-pecuniary nature in the living conditions of the victims). Thus they include acts or projects of a public scope or repercussion, such as the conveyance of a message of official repudiation of the human rights violations in question in order to recover the memory of the victims, acknowledge their dignity and console their relatives.

Accordingly, measures of satisfaction can be divided into five groups, according to their nature and purpose: (a) a public act to acknowledge responsibility and to repair the memory of the victims; (b) publication or dissemination of the judgment of the Inter-American Court; (c) measures to commemorate the victims or the events; (d) determination of the whereabouts of victims and/or identification and return of their mortal remains, and (e) other measures of satisfaction in favor of the victims, such as providing them with scholarships for primary, secondary or tertiary education; allowing them to take part in a literacy program in a State institution; providing them with vocational training or assistance or professional upgrading through the award of grants; abstaining from executing victims who have been sentenced to death, and in cases of massacre, implementing a program to provide adequate housing to surviving victims who require this, together with socio-economic measures of collective reparation.

4. **Guarantees of non-repetition.** These are measures designed to ensure that human rights violations such as those that occurred in the case are not repeated. Such measures have a public scope or repercussion and frequently resolve structural problems, so that not only the victims of the case but also other members and groups of society benefit from them.

Guarantees of non-repetition can, in turn, be divided into three groups, according to their nature and purpose: (a) training public officials and educating the general public with regard to human rights; (b) adopting measures under domestic law, and (c) adopting measures to guarantee the non-repetition of violations.

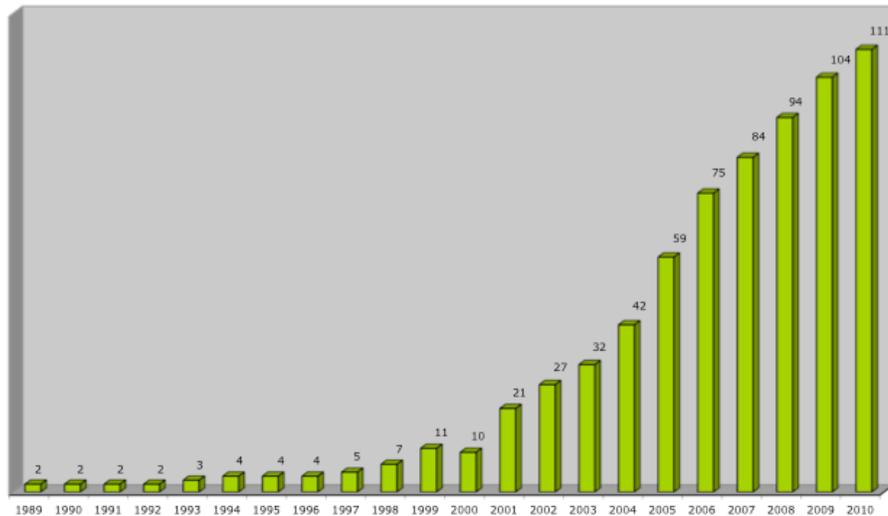
5. **Obligation to investigate, prosecute and punish, as appropriate.** This refers to the State's obligation to ensure the rights to life and to personal integrity and liberty by conducting a thorough investigation into the facts that affected those rights and punishing those responsible, as appropriate. It means that the State must remove all *de facto* and *de jure* obstacles that prevent due investigation of the facts,

and use all available means to expedite the said investigation and the respective proceedings, in order to avoid the repetition of the violations. Compliance with this obligation also contributes to making reparation to the victims and their next of kin.

The reparations that the Court has ordered are characterized by the amplitude, because of that, the supervision of mechanism of judgment that the Court has used are complex due to the wide variety of matters and obligations. It required, in general, that the States accomplish with the fully comply their obligations of reparations of the violation on human rights, made acts of any nature in which it is required sometimes, the participation of different institutions of the State such as the investigation and further punishment of old violations

The Court have 111 cases with monitoring of compliance of the judgment. However, this does not mean that the judgment are "incompleted". The majority, by the opposite, most of the operative paragraphs has been accomplished. For example, the payment of pecuniary compensation is fully completed in about 80% of the judgments. Moreover, in certain occasions other aspects such as the obligation to investigate old crimes have a lower index due to in certain circumstances required another kind of actions like the restart o a process that was already filed in the domestic court, the change of a venue (for example, the militar criminal jurisdiction to the ordinary criminal jurisdiction) or the access to information of necessary documents to perform the investigation in hands of organims different to the one in charge of the investigation.

Contentious cases on stage of monitoring compliance with judgment



- It is considered that a case is in the stage of monitoring compliance with judgment when the Court has already solved the case and some extreme of the judgment is pending compliance, by the condemned State. Only when the Court considers that the State has complied with each and every of the obligations ordered in the judgment, it orders the archive of the case.

In 2010, the Court decided that the measures of reparation ordered in the cases of *Herrera Ulloa v. Costa Rica* and *Tristán Donoso v. Panamá* had been complied with fully. In the former case, the Court underscored the measures taken by the State to

enhance the appeal system in criminal cases, taking into account the extreme complexity of the matter. With regard to the case of Tristán Donoso, the Court highlighted the words of the Supreme Court of Justice of Panama, which had stated that "the Republic of Panama, as a member of the international community, recognizes, respects and obeys the decisions of the Court of Human Rights."

2. Advisory function: this function enables the Court to respond to consultations by OAS Member States or the Organization's organs, in the terms of Article 64 of the Convention, which stipulates:

1. The Member States of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of Human Rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.
2. The Court, at the request of a Member State of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

The right to request an advisory opinion is not limited to the States Parties to the Convention. Any OAS Member State may request such an opinion. The advisory jurisdiction of the Court enhances the Organization's capacity to deal with matters arising from the application of the Convention, because it enables the organs of the OAS to consult the Court, within their spheres of competence.

The Court received no requests for an advisory opinion during the year. It made no ruling in this regard either.

3. Provisional measures: the Court may adopt these measures, at the request of the Inter-American Commission, both in cases which the Court is hearing and in cases not yet submitted to it. The Court adopts these measures in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons. In this sense, the Article 63(2) of the Convention stipulates that:

In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

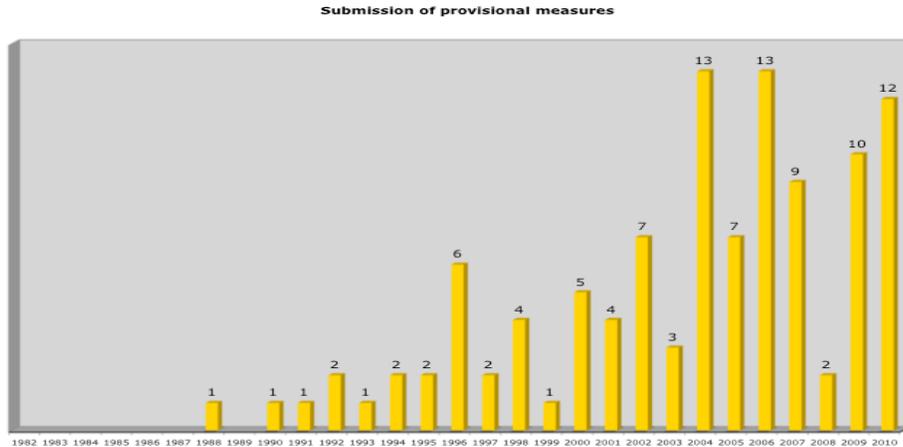
Twelve requests for provisional measures were submitted to the Court's consideration during the year; of these, seven were adopted, three of them with Order of the President of the Inter-American Court⁷, four were rejected⁸, and one is

⁷ Matter of Wong Ho Wing regarding Peru; Matter of Juan Almonte Herrera et al. regarding Dominican Republic, Order of the President of the Inter-American Court of March 24, 2010; Matter of Alvarado Reyes et al. regarding Mexico; Matter of Gladys Lanza Ochoa regarding Honduras; Matter of Centro Penitenciario de Aragua "Cárcel de Tocorón" regarding Venezuela; Matter of María Lourdes Afiuni regarding Venezuela, Order of the President of the

pending resolution.⁹ In addition, one provisional measure was lifted entirely¹⁰ and five were lifted partially.¹¹

In exercise of the faculty of the Court to supervise the implementation of provisional measures ordered, this issues 36 resolutions about the supervision of the implementation of provisional measures and celebrated ten public hearings in this subject.¹² Today, the Court have 46 provisional measures under supervision.

To supervise the resolution ordered by the Court in provisional measures helps to strength the effectivity of the desitions of the Court and allow to recived from the parties – oral as written way- more accurate and update information about the status of compliance of each one of the measures ordered in the judgments and resolutions as well as to promote that the States make concrete efforts directed to accomplish the execution os such measures and even has motivated the parties (State and representatives of the victims) to reach agreements aimed to a better compliance of the provisional measures which demands everyday more attention on behalf of the Court.



Inter-American Court of December 10, 2010; and Matter of José Luis Galdámez-Álvarez et al regarding Honduras, Order of the President of the Inter-American Court of December 22, 2010.

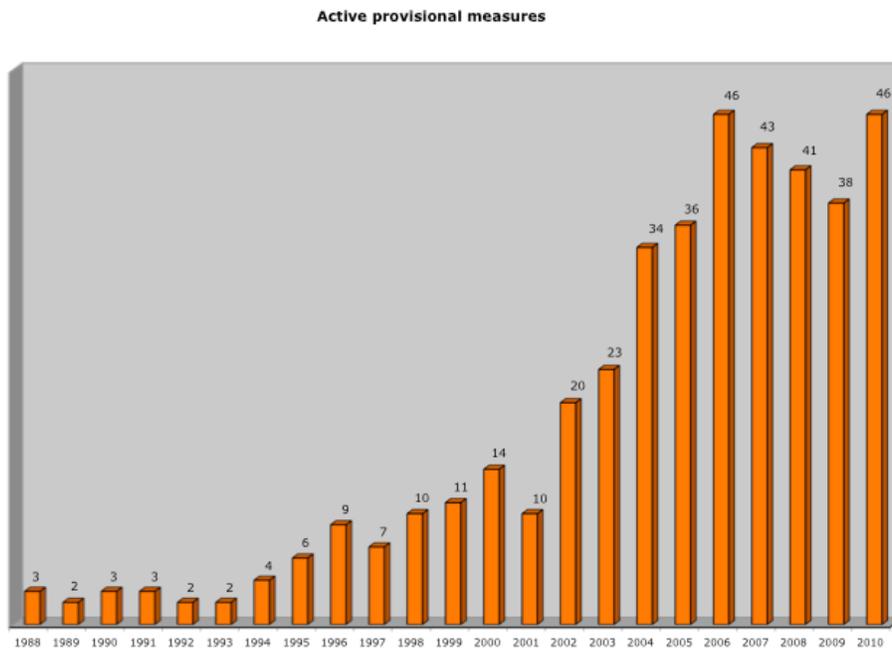
⁸ Matter of Four Ngöbe Indigenous Communities and its members regarding Panama; Matter of Belfort Istúriz et al. regarding Venezuela; Case of the Caracazo v. Venezuela; and Matter of Comisión Intereclesial de Justicia y Paz regarding Colombia.

⁹ Matter of "Internal Socio-educative Unit" (Brazil)

¹⁰ Matter of Mendoza Penitentiaries v. Argentina

¹¹ Provisional measures: matter of Adrián Meléndez Quijano *et al.* with regard to El Salvador, case of García Prieto *et al.* with regard to El Salvador, matter of Giraldo Cardona with regard to Colombia, case of Caballero Delgado and Santana with regard to Colombia and case of the 19 Tradesmen with regard to Colombia.

¹² Provisional measures: Matter of Adrián Meléndez Quijano et al v. El Salvador, Case of García Prieto et al v. El Salvador, Matter Eloísa Barrios et al v. Venezuela, Matter Giraldo Cardona v. Colombia, Case of Caballero Delgado and Santana v. Colombia, Matter Sarayaku indigenous people v. Ecuador, Matter of Jiguamiandó and Curbaradó indigenous people v. Colombia, Matter Paz Community of San José de Apartadó v. Colombia, Matter of Fundación de Antropología Forense v. de Guatemala and Matter of Mendoza Penitentiaries v. Argentina.



G. RULES OF PROCEDURE OF THE COURT

On January 1, 2010, the Court's new Rules of Procedure entered into force. They had been adopted by the Court during its eighty-fifth regular session held in San José, Costa Rica, from November 16 to 28, 2009.

The principal modification introduced by the new Rules of Procedure concerns the role of the Commission in the proceedings before the Court. Among other aspects, the following stands out: (a) the Commission initiates the proceedings with the report on merits issued under Article 50 of the Convention and when transmitting this report, the Commission must specify the grounds that led it to submit the case to the Court. This way, the Commission does not initiate the proceedings by introducing an application that differs from the report, but by remitting the report

on merits; (b) the Commission will not propose witnesses or the testimony of alleged victims. According to the said article, it can only propose expert witness in certain circumstances; (c) in cases in which a hearing is held, the Commission shall initiate this, explaining the reasons that led it to submit the case. Moreover it may only question the expert witnesses in the situation established in Article 52, and (d) when the stage of the presentation of arguments has concluded, the Commission presents its final observations.

In addition, the Rules of Procedure provide for other important amendments as indicated below:

Ad Hoc Judges

In accordance with Advisory Opinion OC-20/09 on Article 55 of the American Convention on Human Rights, the Rules of Procedure establish that: (a) judges may not take part in hearing and deliberations on an individual petition submitted to the Court when they are nationals of the defendant State, and (b) judges *ad hoc* may be appointed solely in cases arising from inter-State communications.

Inter-American Defense Counsel

The new Rules of Procedure indicate that, if an alleged victim does not have legal representation in the proceedings before the Court, the Court may appoint, on its own motion, a defense counsel (the "Inter-American Defender"), who will be able to receive financial support from the Legal Assistance Fund of the Inter-American Human Rights System.

Common Intervener

These Rules of Procedure also authorize that, when the alleged victims are several and are unable to reach agreement on the appointment of a common intervener, they can designate up to three representatives to act as common interveners. To safeguard the procedural balance of the parties in this situation, the Rules of Procedure authorize the President of the Court to determine a time frame other than that established in the Rules of Procedure for the State to submit its answer, as well as the time allocated to the State and to the alleged victims or their representatives for their participation in the public hearings.

Amicus curiae Transmission of briefs and evidences by electronic means

The amended Rules of Procedure authorize the use of the new technologies; hence they permit the transmission of the briefs of the parties and of the *amicus curiae* by electronic means, and establish that a printed copy need not be sent provided that the electronic version bears the author's signature. Furthermore, they allow the Court to transmit documents and notify the parties exclusively by electronic means, and also to receive audiovisual recordings of statements.

Affidavits

Regarding testimony proposed by affidavit, the Rules of Procedure allow the parties to submit written questions to authors of such testimony.

The Rules of Procedure extend the protection of those who appear before the Court to the representatives or legal advisers of the alleged victims.

Rectification of mistakes

The new Rules of Procedure allow the Court, on its own motion or at the request of any party to the case, to rectify any obvious mistakes, clerical errors, or errors in calculation in its judgments or orders.

Provisional measures

With regard to provisional measures, the new Rules of Procedure specifies that when such measures are requested in the context of a contentious case being heard by the Court, they must be related to the purpose of the case.

The Rules of Procedure cover the Court's different procedural practices, such as the request for the definitive list of witnesses (Article 46); the presentation of the final written arguments by the alleged victims or their representatives and the respondent State, and of any final observations by the Commission if it so wishes (Article 56);

the elements that should be included in the brief with pleadings, motions and evidence of the alleged victims or their representatives and in the State's answer; the joinder of provisional measures or monitoring compliance with the judgment, when the requirements established (in Article 30) are fulfilled; the submission of evidence after the time limit has expired (Article 57(2)), as well as any evidence that is presented incomplete or illegible, and the consequences (Article 59); the causes for the disqualification of witnesses and expert witnesses (Articles 48 and 49); the proposal, summoning and appearance of deponents (Article 50), and the conduct of the hearings before the Court (Article 51). Furthermore, the new Rules of Procedure regulate the submission of cases by the States, in accordance with Article 61 of the American Convention.

In its transitory articles, the new Rules of Procedure stipulate that any contentious cases submitted to the Court's consideration before January 1, 2010, will continue to be processed under the previous Rules of Procedure up until judgment is delivered and, in cases when the Commission adopted the report on merits prior to the entry into force of the new Rules of Procedure, the submission of the case to the Court shall be ruled by the previous Rules of Procedure but only as regards the initiation of the proceedings and the presentation of the application. In a later proceeding, the new Rules of Procedure shall apply.

H. Broadening the Inter-american jurisdiction's horizons

H. 1. LEGAL ASSISTANCE FUND OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

The purpose of the Legal Assistance Fund of the Court is to facilitate the access to the inter-American human rights system for those individuals who lack sufficient resources to file their case before the system. Once a case has been submitted to the Court, anyone who does not have the financial resources to cover the expenses arising from the proceedings before the Court may expressly request to have recourse to the victims' fund.

On February 4, 2010, *the Rules of Procedure of the Court concerning the Operation of the Victims' Legal Assistance Fund* were issued (**Annex 1**), which entered into force on June 1, 2010. From now on, those who do not have the financial means to cover the expenses arising from proceedings before the Court may apply to the Victims' Fund once their case has been submitted to the Court. In this way, they can obtain assistance for litigation expenses, after their need for this financial assistance has been verified. It is the Court that decides whether an alleged victim may be granted resources from the Victims' Fund. With the adoption of the rules of procedure, the Court has taken a giant step towards enhancing and expanding the horizons of inter-American justice by establishing a mechanism that will ensure that those without the necessary financial resources are not excluded from access to the Inter-American Court.

According to the Rules of Procedure, the alleged victims who wish to avail themselves of the Victims' Legal Assistance Fund should inform the Court of this in their brief with pleadings, motions and evidence. In addition, they must verify, by means of a sworn declaration or other appropriate means of proof that is satisfactory to the Court, the absence of sufficient financial resources to cover the costs of litigation before the Court and indicate precisely which aspects of their defense during the proceedings require resources from the Victims' Legal Assistance Fund.

The Court's Secretariat will make a preliminary examination of the application for assistance and will call on the applicant to forward any information required to complete the file before submitting it to the consideration of the President of the Court. The President of the Court will evaluate each application to determine its admissibility, and will indicate which aspects of the defense can be covered by the Victims' Legal Assistance Fund.

The Court's Secretariat administers the Fund. When the President has determined that the request is admissible and his decision has been notified, the Court's Secretariat will open a file of expenditures for each case, in which it will document each payment made, in accordance with the parameters authorized by the President. The Court's Secretariat will inform the Defendant State of the payments from the Fund, so that it may submit any observations it wishes within the time frame established to this effect. When delivering judgment, the Court will evaluate whether it is appropriate to order the Defendant State to reimburse the Victims' Legal Assistance Fund of the Court for any payments that may have been made.

On February 25, 2010, the international cooperation agreement between the Norwegian Ministry of Foreign Affairs and the Inter-American Court of Human Rights was signed at the Court's seat. Part of this project holds a component entitled "Access of victims of human rights violations who lack the necessary financial resources to the Inter-American protection mechanism". The objective of this project is to contribute with financial resources to the *Legal Assistance Fund of the Inter-American Human Rights System*, for a three-year period of time, with the amount of US\$210,000.00. This amount is divided into contributions of US\$70,000.00 a year, of which the Court has received the first tranche in 2010.

In the same way, the Court received from Colombia a contribution of US\$25,000.00 for the *Legal Assistance Fund of the Inter-American Human Rights System*. Up to present, Colombia has been the only OAS Member State which has contributed to the Fund.

H. 2. INTER-AMERICAN PUBLIC DEFENDER

In 2010, The Court signed a Memorandum of Understanding between the Court and the Inter-American Association of Public Defenders (AIDEF). The objective of the Memorandum of Understanding is the provision of free legal assistance to alleged victims who have insufficient financial resources or legal representation before the Inter-American Court, in agreement with the Court's new Rules of Procedure that entered into force in January 2010, which establishes that: "in cases of alleged victims without duly accredited legal representation, the Court may, on its own motion, appoint an inter-American defender to represent them during the processing of the case."

In this regard, the Court has considered that, to ensure the effective defense of human rights and the enhancement of the rule of law, it is essential to ensure that every individual is able to obtain access to both national and international justice and to assert his or her rights and freedoms. Providing legal assistance to those without financial resources or legal representation avoids discrimination in access to justice, by ensuring that this does not depend on the litigant's financial situation, and permits an adequate technical defense during the proceedings.

In those cases in which an alleged victim lacks 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, in order to ensure that their rights are guaranteed. When the Court observes that an alleged victim does not have legal representation in a case, it will inform to the AIDEF General Coordinator, so that within 10 days, the latter may appoint the defender who will assume the legal representation and defense, and also advise the Court where the pertinent communications should be notified. The Court will then forward the documentation relating to the case before the Court to the person appointed as the AIDEF public defender and, in keeping with the Court's Rules of Procedure, from that moment on, the said person will assume the legal representation and defense of the alleged victim during the processing of the case before the Court.

The legal representation before the Inter-American Court by the person appointed by the AIDEF is provided free of charge. The inter-American defender will charge only the expenses arising from the defense, and the Inter-American Court will contribute by paying the reasonable and necessary expenses that he or she incurs to the extent possible and through the Victims' Legal Assistance Fund.

I. BUDGET

Article 72 of the Convention states that "the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it." According to Article 26 of the Statute of the Court, the Court draws up its own budget. The budget of the Court, provided by the fund of OAS, for the year 2010 was US\$1,998,100.00 (one million nine hundred and ninety eight thousand one hundred United States dollars).

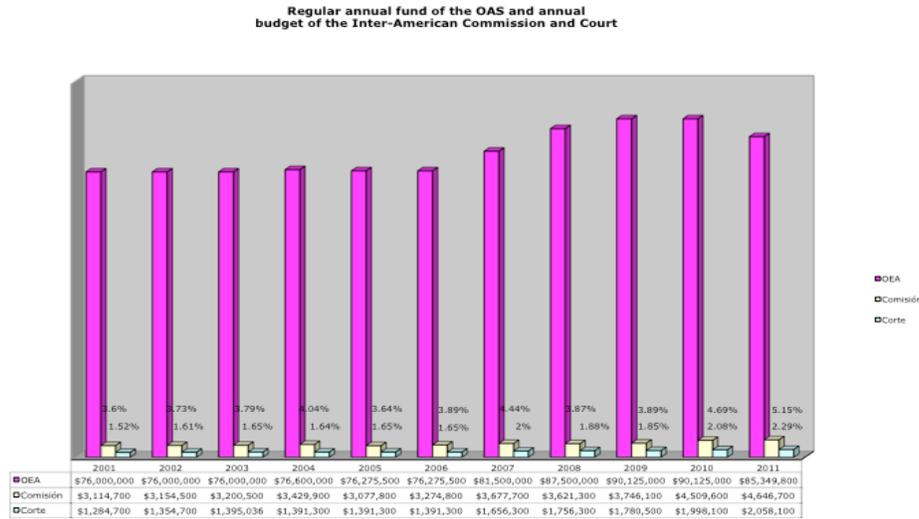
The total expense incurred by the Court for its regular operations during the fiscal year of 2010 was US\$3,783,061.47. The OAS contributed with US\$1,998,100.00 from its annual budget, which represents 53% of the Court's annual expenditures. The rest of the funds were obtained from international cooperation, from voluntary contributions from the States, and from various other institutions.

These figures show that, once more, the resources from the OAS fund were insufficient to enable the Court to properly cover its regular expenses. This situation obliged the Court to look for voluntary contributions or cooperation projects from various institutions and States. These projects and contributions cover 47% of the essential regular expenses for the effective operations of the Court. In this sense, it is worrying that the regular expenses of the Court are every year covered in greater percentage by voluntary contributions, and in minor proportion by the OAS resources.

It is certain that the OAS budgeted an additional US\$60,000.00 for the year 2011, in comparison with the budget granted in 2010, but it is also certain that this increase does not modify the structural situation. Voluntary contributions and international cooperation are covering almost half of the Court's activities. Would these voluntary contributions not exist, the Inter-American Court would have to drastically reduce its jurisdictional activities, hindering the protection of Human Rights in the Americas.

I.1 Core budget

At its fortieth special session held in Washington, D.C., on September 30, 2009, the General Assembly of the Organization of American States approved the Court's budget for 2011 in the amount of US\$2,058,100.00 (two million fifty-eight thousand one hundred United States dollars).



I.2 Voluntary contributions

During 2010, the Court received voluntary contributions towards its operations from the following States and institutions

1. Government of Costa Rica, under the agreement: US\$ 128,392.08
2. Government of Mexico: US\$62,500.00
3. Government of Colombia: US\$80,000.00
4. Government of Chile, through its Embassy in Costa Rica: US\$10,000.00
5. United Nations High Commissioner for Refugees (UNHCR) US\$5,000.00
6. Santa Clara University, California: US\$1,600.00

I.3 Cooperation projects

Execution of international cooperation projects continued during 2010.

1. Spanish Agency for International Development Cooperation (AECID):
 - (a) Enhancing the jurisdictional capacities of the Inter-American Court, second stage, ended in March 2010: US\$162,330.16 (last tranche).
 - (b) Reinforcing implementation of the Court's decisions, first stage (April 2010 to March 2011): US\$315,000.00 (first tranche).

(c) Itinerant Court project, second stage, ending in December 2010: US\$179,310.20; US\$36,259.50 pending.

2. Norwegian Ministry of Foreign Affairs:

On February 25, 2010 an agreement was signed establishing the terms and conditions for the implementation of the program "*Strengthening the Inter-American Court of Human Rights 2010-2012*". The amount of this project for 2010 is US\$636,365.00.

I.4 Audit of the financial statements

During 2010, an audit was conducted of the Inter-American Court's financial statements for the 2009 financial year. It covered all of the funds administered by the Tribunal, which include the OAS funds, the Costa Rican State's contribution, the funds from international cooperation initiatives, and also contributions from other States, Universities and other International Organizations. The financial statements are prepared by the administrative unit of the Inter-American Court and the audit was made in order to obtain an opinion confirming the validity of the Court's financial transactions, taking into account generally accepted accounting and auditing principles.

According to the April 14, 2010, report of HLB, authorized public accountants, the Court's financial statements adequately reflect the institution's financial situation and net assets, and also the income, expenditure and cash flows for 2009, 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 Financial Services Department and to the Organization's Inspector General.

J. AGREEMENTS, INTERNSHIPS AND RELATIONS WITH OTHER ORGANIZATIONS

J.1 Inter-institutional cooperation agreements

During 2010, the Inter-American Court of Human Rights concluded cooperation agreements with sixteen institutions:

a) Universities

- Universidad San Buenaventura, Medellín, Colombia
- Universidad Milano Bicocca, Italy
- *Facultad Libre de Derecho de Monterrey*, Mexico
- *Instituto Universitario de Investigación Ortega and Gasset*, Spain
- Universidad Santo Tomás, Colombia
- Pontificia Universidad Católica del Peru
- Universidad Católica de Santiago de Guayaquil, Ecuador

b) Ombudsmans

- The Peruvian Ombudsman's Office

- The Ecuadorian Ombudsman's Office
- c) The State Human Rights Commission, Tabasco, Mexico
- d) The Ministry of Foreign Affairs of Colombia
- e) The Constitutional Court of Peru
- f) The Inter-American Ombudsman Federation
- g) The Lima Lawyers' Professional Association, Peru
- h) The Peruvian Diplomatic Academy

The purpose of these agreements is to establish the bases for collaboration in order to promote joint activities with the said institutions in the area of human rights research, teaching, dissemination and extension work.

Likewise, in May, the Court signed an agreement with the African Court on Human and Peoples' Rights, with the objective to favour the achievement of mutual goals, through interinstitutional cooperation.

J.2. Internships and professional practicums

During 2010, the Court received at its seat 54 interns and professional visitors from the following 18 countries: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Dominican Republic, Ecuador, France, Germany, Greece, Italy, Mexico, Peru, Poland, Spain, Switzerland and United States of America. The following website can be consulted for further information on the Court's Internships and Professional Visits Program: <http://www.corteidh.or.cr/pasantias.cfm>.

K. TRAINING AND DISSEMINATION

During 2010, the Court held a series of human rights training and dissemination activities in several countries of the Americas in order to expand the understanding of the Court's functions and the inter-American system of human rights, through the participation and training of civil society organizations and individuals, academics and public servants. These activities are described below:

K.1 Graduate fellowship course: "Human Rights and the Right to a Fair Trial"

In 2008, 2009 and 2010, the Inter-American Court of Human Rights sponsored the Graduate Fellowship course on "Human Rights and the Right to a Fair Trial," organized by the Inter-American Organization for Higher Education (IOHE), the College of the Americas (COLAM), the Inter-American Training Network in Governance and Human Rights (RIF-DH) and the Universidad de Chile, executed in the context of a human rights training program that included three training courses over the period 2008-2011, two of them subregional and one regional.

The purpose of the course was to train members of institutions in the region that are involved in the administration of justice on the standards, norms and principles of international human rights law so that can apply them in their professional practice.

The course comprised two stages; one of distance training and the other classroom-based. The regional course was held in 2010 for agents of justice (judges, prosecutors and defense counsel) from South and Central America and Mexico. A lawyer from the Court was a member of the teaching staff during the classroom-based week, which took place in Lima, Peru.

K.2 Seminar–workshops under the agreement signed with the Escuela Superior de Administración Pública (ESAP), Colombia

On February 17, 2009, a general cooperation agreement was signed by the Escuela Superior de Administración Pública (ESAP) of the Republic of Colombia and the Inter-American Court. The agreement was implemented starting in May 2009, with the purpose of disseminating information on the inter-American system, and to provide training on human rights topics to public officials, and commanders of troops, divisions and brigades of the Air Force, the Army, the Navy and the National Police of Colombia; judges, officials of the Prosecutor General’s Office and other administrators of justice; officials of the Presidential Human Rights Program, the Ministry of the Interior and Justice, the Ministry of Foreign Affairs, the Ombudsman, and the Comptrollers’ Offices, as well as ESAP professors and students in each region.

These objectives have been implemented principally through seminars-workshops about the inter-American human rights system. This way, seminars were held in September 2009 in Santa Marta, with the participation of around 80 civil and military public officials, and in October 2009 in Santiago de Cali, with the participation of 102 public officials. In the same way, in October 2010 a seminar-workshop was held in Medellín, in the Antioquia Department, with the participation of 120 public officials, students and members of organizations from the the civil society.

The protagonism of the Court enabled these activities to be held with the teaching support of officials from the UN Refugee Agency (UNHCR) and from the International Committee of the Red Cross (ICRC), among others, in addition to the Court’s officials.

The topics discussed in the seminars included: background, history, statutes and rules of procedure, protection organs, and functions of the inter-American human rights system; State responsibility under the system’s international treaties; access to justice; the rights to life, personal integrity and personal liberty; serious human rights violations and transitional justice mechanisms; state of emergency, state of exception and legitimate use of force, and vulnerable groups.

K.3 Fifth Interamerican Training Program for public officials

The Inter-American Court, in conjunction with the Inter-American Association of Public Defenders (AIDEF), organized the training course. 21 officials from public defenders’ offices took part in the training course, from Argentina, Brazil, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Panama, Paraguay and Uruguay. The course was offered during the eighty-eighth regular session held in San José Costa Rica from August 23 to 27, 2010.

The course was designed to provide training in topics both substantive and procedural on the Inter-American System, to those who work as inter-American public defenders, in keeping with the provisions of Article 37 of the current Rules of Procedure of the Inter-American Court for cases being processed by the Court where the alleged victim or victims do not have a duly accredited legal representative.

K.4 Specialized course on the inter-American human rights system for State officials

In August 2004 the Inter-American Court, the Inter-American Commission and the Inter-American Institute signed a cooperation agreement for the promotion of human rights in the Americas. The mandates of the three institutions converge, precisely, in the strengthening of the regional system and the effective exercise of human rights in the countries of the hemisphere, and the tripartite agreement permits these institutions to work together to promote a continental strategy that includes, as one of its concrete actions, the specialized training of State officials on the main normative, procedural and institutional aspects of the inter-American system.

The fifth edition of the course, which has been held since 2005, took place in San José, Costa Rica, from January 25 to 29, 2010. The course focused on assembling officials from ministries of foreign affairs, offices of the attorney general, and other public institutions linked directly to the proceedings before the Inter-American Commission and the Inter-American Court, for training activities, discussions and an exchange of experiences in an academic environment.

The group of participants comprised 41 State agents from 19 countries of the Americas. The course methodology includes a combination of lectures, observation of public hearings before the Inter-American Court, and opportunities to analyze and discuss the hearings in a process that leads the student from theoretical, conceptual and normative aspects to their practical application in the inter-American litigation process.

K.5 III International Seminar Inter-American System for the protection of human rights and public defenders. Case law of the Inter-American Court of Human Rights

"The III International Seminar on the inter-American system for the protection of human rights and public defenders: the case law of the Inter-American Court of Human Rights" was held in Belo Horizonte, Brazil, from October 20 to 23, 2010, organized by the National Association of Public Defenders (ANADep) of Brazil and the Association of Public Defenders of Minas Gerais (ADEP/MG), coordinated by the Inter-American Court.

The purpose of the seminar was, among others, to train Brazilian public defenders on the inter-American system, its norms and mechanisms, so as to ensure the effective access to justice of those they assist. The Secretary of the Inter-American Court, together with two of the Court's lawyers, took part in the seminar and presented topics that included the following: "the state responsibility in international law"; the "Inter-American human rights system: functions and competences of the Commission and the Court"; the "inter-American case law on the right to life"; the "inter-American case law on the prohibition of torture and the right to humane treatment"; the "inter-American case law on the right to personal liberty"; the "inter-American case law on due process and judicial guarantees"; the "inter-American case law on economic, social and cultural rights"; the "inter-American case law on the rights of indigenous peoples and juridical pluralism", and the "inter-American case law on reparations and impact of the inter-American system". Control of conventionality.

K.6 Training program on the inter-American system for Costa Rica's public defenders

This program was held at the seat of the Court on March 23, and April 6, 13 and 20, 2010. Its purpose was to enhance the technical and juridical capabilities of Costa Rican public defenders to promote and protect human rights, as well as to guide them with regard to the use of the inter-American system. In addition, its objective was to make a substantive contribution to public defense policies and strategies in order to reinforce the exercise of human rights, especially in the sphere of inter-American litigation, from an interdisciplinary and intersectoral perspective.

K.7 Publication "Diálogo Jurisprudencial"

Since 2006, the Inter-American Court together with the Inter-American Institute, the Juridical Research Institute of the Universidad Nacional Autónoma de México (UNAM) and the Konrad Adenauer Foundation has published periodically the journal "*Diálogo Jurisprudencial*," based on the need to publicize the evolution of the inter-American system and the incorporation of the international norms in this area into the legal systems of each country, as well as the corresponding incorporation by national courts of international jurisprudence. The high courts of many countries (supreme courts and constitutional courts) are increasingly accepting the opinions of the Inter-American Court, in its capacity as the interpreter of the American Convention and other applicable instruments, expanding the horizons of the protection of human rights.

The purpose of this publication is to disseminate these advances, revealing their characteristics and expanding their consequences, thereby helping to strengthen the contemporary culture of human rights and, consequently, the effective protection of millions of individuals who await the benefits of a productive partnership between national and international justice. The journal assembles a selection of judgments issued by the high courts of the countries of the Americas that illustrate the progress mentioned above and provide sufficient momentum to carry on the important task to which the national and international jurisdictions are committed.

In 2010, edition VII was published and it includes, in addition to the printed version, a CD version. It has a circulation of 2,000 copies distributed in the countries of the Americas.

K.8 The Court's publications

During 2010, in the context of the project "Strengthening the Inter-American Court of Human Rights," financed by the Norwegian Ministry of Foreign Affairs, two volumes were published with judgments handed down by the Court, corresponding to Series C.¹³

Also in 2009, with financial assistance from the Ministry of Foreign Affairs and Cooperation of Spain, and the Spanish International Cooperation Agency for Development, the Court published "*Privación de Libertad y Condiciones Carcelarias*" [Deprivation of liberty and prison conditions], systematizing the corresponding case law of the Inter-American Court.

¹³ The publications are: I.D.H Court, case of Montero Aranguren et al (Catia lock) v. Venezuela, Merits, reparations and Costs, judgment of July 5, 2006, serie C No 150

During the forty-first special session held in Peru from April 12 to 16, 2010, 300 brochures with information on the Court were distributed, together with 300 leaflets with information on the session, 300 CD-ROMs with the Court's case law, as well as other publications of the Court, with the financial assistance of the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency for Development.

During the forty-second special session held in Ecuador from November 15 to 19, 2010, 300 brochures with information on the Court were distributed, together with 300 leaflets with information on the session, 300 CD-ROMs with the Court's case law, as well as other publications of the Court, funded by the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency for Development.

L. Petitions and Consultations

The Secretary of the Court leads the important task to give an answer to the various petitions and consultations that the Court receives every day from individuals from around the world, mainly from parts of the world under the jurisdiction of the OAS Member States.

The requests are mainly consultations regarding human rights violations, from individuals who do not know the procedure to follow before the Inter-American System. Therefore, the Court gives an answer to each petition informing on the procedure before the Inter-American System, and exceptionally, remitting original consultation documentations to the Inter-American Commission. The other important group of requests refers to petitions on how complaints shall be presented before the Inter-American System, and on the Court's case law. Finally, the Secretary receives constant requests for guided tours and talks on the running of the system, which are coordinated and dealt with during the working-time hours of the Court. Since extraordinary sessions are also being held away from the Court's seat, the number of petitions and consultations has increased.

During the year 2010, the Secretary of the Court processed and answered to 739 petitions and consultations. This way, the Court attended to 45 visits at its seat.

II. JURISDICTIONAL AND ADVISORY ACTIVITIES OF THE COURT

During 2010, The Court held four regular sessions¹⁴ at its seat, and two special sessions away from its seat,¹⁵ for a total of 53 days of sessions. The details of each session are presented below:

¹⁴ Eighty-sixth regular session from January 25 to February 4, 2010; eighty-seventh regular session from May 17 to 28, 2010; eighty-eighth regular session from August 23 to September 4, 2010, and eighty-ninth regular session from November 21 to 27, 2010.

¹⁵ Forty-first special session held in Lima, Peru, from April 12 to 16, 2010, and forty-second special session held in Quito, Ecuador, from November 15 to 19, 2010.

II.a REGULAR SESSIONS

A. Eighty-sixth regular session of the Court

From January 25 to February 4, 2010, the Court held its eighty-sixth regular session in San José, Costa Rica, with the following members: Diego García-Sayán (Peru), President; Leonardo A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarete May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). Judge *ad hoc* María Eugenia Solís García also took part in the session, appointed by the State of Guatemala for the case of Chitay Nech *et al.* The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held two public hearings on contentious cases, nine private hearings and one public on monitoring compliance with judgment, and six public hearings on provisional measures. It also delivered seven orders on provisional measures, one concerning the processing of a case, and five orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of Cepeda Vargas (Colombia): Preliminary objections and possible merits, reparations and costs. On January 26 and 27, 2010, at a public hearing, the Court heard the testimony of the alleged victims, witnesses and expert witnesses proposed by the representatives of the alleged victims, the Inter-American Commission and the State of Colombia. The Court also heard the final oral arguments of the parties on the preliminary objections and the possible merits, reparations and costs in this case.

2. Matter of Meléndez Quijano *et al.* (El Salvador): Provisional measures. On January 28, 2010, the Court held a public hearing to obtain information from the State of El Salvador, the Inter-American Commission and the representatives of the beneficiaries concerning the implementation and effectiveness of the provisional measures ordered in this matter.

On February 2, 2010, the Court issued an order on provisional measures in this matter (**Annex 2**), in which it decided, *inter alia*, to lift the provisional measures in favor of the beneficiaries José Roberto Burgos Viale and Eurípides Manuel Meléndez Quijano; to require the State to maintain and adopt all necessary measures to protect the rights to life and to personal integrity of Adrián Meléndez Quijano, Marina Elizabeth García de Meléndez, Andrea Elizabeth Meléndez García, Estefani Mercedes Meléndez García, Pamela Michelle Meléndez García, Adriana María Meléndez García, Gloria Tránsito Quijano widow of Meléndez, Sandra Ivette Meléndez Quijano, Roxana Jacqueline Mejía Torres, Manuel Alejandro Meléndez Mejía, Benjamín Cuéllar Martínez and Henry Paul Fino Solórzano, and to require the State to continue implementing the provisional measures in agreement with the beneficiaries of the measures or their representatives so as to ensure the real protection of their rights.

3. Case of the Serrano Cruz Sisters (El Salvador): Monitoring compliance with judgment. On January 28, 2010, the Court held a private hearing in order to receive from the State completed and current information on compliance with the points pending fulfillment of the judgment on merits, reparations and costs handed

down by the Court on March 1, 2005, and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

4. Case of García Prieto (El Salvador): *Monitoring compliance with judgment and provisional measures.* On January 28, 2010, the Court held a public hearing to obtain information from the State of El Salvador on compliance with the judgment handed down in this case, to hear the corresponding observations of the Inter-American Commission and of the representatives, and to receive information on the implementation and effectiveness of the provisional measures.

On February 3, 2010, the Court issued an order on provisional measures in this case (**Annex 3**), in which it decided, *inter alia*, to lift and conclude the provisional measures in favor of the beneficiaries José Roberto Burgos Viale and Matilde Guadalupe Hernández de Espinoza; to require the State to maintain any measures adopted and to adopt all necessary measures to protect the rights to life and to personal integrity of Gloria Giralt de García Prieto, José Mauricio García Prieto Hirlemann, María de los Ángeles García Prieto de Charur, José Benjamín Cuéllar Martínez and Ricardo Alberto Iglesias Herrera, and to require the State to implement the provisional measures in agreement with the beneficiaries of the measures or their representatives to ensure the real protection of their rights.

5. Matter of Eloisa Barrios et al. (Venezuela): *Provisional measures.* On January 28, 2010, the Court held a public hearing to obtain information from the State of Venezuela, the Inter-American Commission on Human Rights and the representatives of the beneficiaries on the implementation and effectiveness of the provisional measures ordered in this matter.

On February 4, 2010, the Court issued an order on provisional measures in this matter (**Annex 4**), in which it decided, *inter alia*, that the death of the beneficiary Oscar Barrios reveals the State's failure to implement the provisional measures ordered by this Court effectively; to maintain the provisional measures required by the Inter-American Court of Human Rights in its orders of November 23, 2004, and June 29 and September 22, 2005; to reiterate to the State that it must maintain any measures it had adopted and order immediately those necessary to provide effective protection to the life and personal integrity of the beneficiaries of the provisional measures; to reiterate to the State that it must provide the permanent measures of custody required to provide security to the homes of Maritza Barrios, Juan Barrios, and Orismar Carolina Alzul García, without prejudice to the parties being able to reach agreement on more comprehensive provisional measures in the context of the dialogue between the beneficiaries and the State, and to require the State to ensure and implement effectively the necessary conditions for the members of the Barrios family who have been forced to move to other regions of the country to return to their homes.

6. Matter of Giraldo Cardona et al. (Colombia): *Provisional measures.* On January 29, 2010, the Court held a public hearing to obtain information from the State of Colombia, the Inter-American Commission and the representatives of the beneficiaries on the implementation and effectiveness of the provisional measures ordered in this matter.

On February 2, 2010, the Court issued an order on provisional measures in this case (**Annex 5**), in which it decided, *inter alia*, to require the State to maintain and to adopt the necessary measures to continue protecting the life and personal integrity

of Islena Rey and Mariela de Giraldo and the latter's two daughters who are minors, Sara and Natalia Giraldo, and to report to the Court in this regard; to reiterate to the State that it must allow the beneficiaries or their representatives to take part in the planning and implementation of the measures of protection and that, in general, it keep them informed of progress in the measures ordered by the Inter-American Court; to lift the measures adopted in favor of Sister Noemy Palencia, and to ask the parties to provide information on the public act held on February 26, 2010, in relation to the re-establishment of the El Meta Civic Human Rights Committee.

7. Case of Caballero Delgado and Santana (Colombia): *Provisional measures.* On January 29, 2010, the Court held a public hearing to obtain information from of the State of Colombia, the Inter-American Commission and the representatives of the beneficiaries on the implementation and effectiveness of the provisional measures ordered in this matter.

On February 3, 2010, the Court issued an order on provisional measures in this case (**Annex 6**), in which it decided, *inter alia*, to lift and conclude the provisional measures required by the Court in its orders of April 16, 1997; June 3, 1999; July 4, 2006; and February 6, 2008, with regard to Gonzalo Arias Alturo; to require the State to continue adopting the necessary measures to protect the life and personal integrity of María Nodelia Parra, and to ask the State to submit to the Court a new study on the level of risk and the degree of threat with regard to the latter.

8. Case of Las Palmeras (Colombia): *Monitoring compliance with judgment.* On January 29, 2010, the Court held a private hearing in order to receive from the State of Colombia complete and current information on fulfillment of the points pending compliance of the judgment on reparations delivered by the Court on November 26, 2002, and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

9. Case of Apitz Barbera et al. ("First Court of Administrative Law") (Venezuela): *Monitoring compliance with judgment.* On January 29, 2010, the Court held a private hearing in order to receive from the State of Venezuela complete and current information on compliance with the reparations ordered in the judgment on the preliminary objection, merits, reparations and costs delivered by the Court on August 5, 2008, in this case, and to hear the corresponding observations of the victims' representative and the Inter-American Commission.

10. Case of El Amparo (Venezuela): *Monitoring compliance with judgment.* On January 29, 2010, the Court held a private hearing in order to receive from the State of Venezuela complete and current information on compliance with the aspect that remained pending of the judgment on reparations of January 18, 1995, in this case and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

11. Case of Barrios Altos (Peru):¹⁶ *Monitoring compliance with judgment.* On February 1, 2010, the Court held a private hearing in order to receive from the State

¹⁶ Judge Diego García Sayán, a Peruvian national, recused himself from hearing this case, in accordance with Article 19 of the Court's Statute and Article 21 of its Rules of Procedure; the Court accepted his recusal. Accordingly, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this case.

of Peru complete and current information on fulfillment of the points pending compliance of the judgment on reparations in this case delivered by the Court on November 30, 2001, and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

12. Case of Cesti Hurtado (Peru):¹⁷ *Monitoring compliance with judgment.* On February 1, 2010, the Court held a private hearing in order to receive from the State of Peru complete and current information on fulfillment of the points pending compliance of the judgment on reparations in this case delivered by the Court on May 31, 2001, and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

13. Case of the Moiwana Community (Suriname): *Monitoring compliance with judgment.* On February 1, 2010, the Court held a private hearing in order to receive from the State of Suriname complete and current information on fulfillment of the points pending compliance of the judgment on preliminary objections, merits, reparations and costs delivered by the Court on June 15, 2005, in this case, and to hear the corresponding observations of the victims' representatives and the Inter-American Commission.

14. Case of Acevedo Jaramillo et al. (Peru):¹⁸ *Monitoring compliance with judgment.* On February 1, 2010, the Court held a private hearing in order to receive from the State of Peru information on compliance with all the measures of reparation ordered in the judgment on preliminary objections, merits, reparations and costs of September 7, 2006, in this case, and to hear the corresponding observations of the common interveners of the victims' representatives and the Inter-American Commission.

15. Case of De la Cruz Flores (Peru):¹⁹ *Monitoring compliance with judgment and request for the adoption of provisional measures.* On February 1, 2010, the Court held a private hearing in order to receive from the State of Peru complete and current information on fulfillment of the points pending compliance of the judgment on merits, reparations and costs of November 18, 2004, and to hear the corresponding observations of the victim's representatives and the Inter-American Commission; also, to receive information on the request for the adoption of provisional measures in favor of the victim.

16. Matter of Natera Balboa (Venezuela): *Provisional measures.* On February 1, 2010, the Court issued an order on provisional measures in this matter (**Annex 7**), in which it decided, *inter alia*, to ratify the order of the President of the Court of December 1, 2006; consequently, the State must adopt, immediately, all necessary measures to determine the situation and whereabouts of Eduardo José Natera Balboa and to protect his life and personal integrity, as well as to reiterate that the State

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Judge Diego García Sayán, a Peruvian national, recused himself from hearing this case, in accordance with Articles 19 of the Court's Statute and 21 of its Rules of Procedure approved at its eighty-fifth regular session held from November 16 to 28, 2006; the Court accepted his recusal. Accordingly, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this matter..

was obliged to provide the Inter-American Court with specific detailed information on implementation of the measures ordered.

17. Case of Chitay Nech et al. (Guatemala): *Preliminary objections and possible merits, reparations and costs.* On February 2 and 3, 2010, at a public hearing, the Court received the testimony of the alleged victims, witnesses and expert witnesses proposed by the representatives of the alleged victims, the Inter-American Commission and the State of Guatemala. The Court also heard the final oral arguments of the parties on the preliminary objections and the possible merits, reparations and costs in this case.

18. Matter of the Sarayaku Indigenous People (Ecuador): *Provisional measures.* On February 3, 2010, the Court held a public hearing to obtain information from the State of Ecuador, the Inter-American Commission and the representatives of the beneficiaries concerning the implementation and effectiveness of the provisional measures ordered in this matter.

19. Matter of Ramírez Hinostroza (Peru):²⁰ *Provisional measures.* On February 3, 2010, the Court issued an order on provisional measures in this matter (**Annex8**), in which it decided, *inter alia*, to require the State of Peru to maintain any measures it had adopted and to adopt, immediately, the necessary measures to protect the life and personal integrity of Luis Alberto Ramírez Hinostroza, his wife, Susana Silvia Rivera Prado, and his three daughters, Yolanda Susana Ramírez Rivera, Karen Rose Ramírez Rivera and Lucero Consuelo Ramírez Rivera, as well as of Raúl Ángel Ramos De la Torre and César Manuel Saldaña Ramírez; to require the representatives, the Inter-American Commission and the State to forward the Court the information it has requested, and to reiterate to the State of Peru that it must allow the representatives of the beneficiaries to take part in the planning and implementation of the measures of protection and, in general, keep them informed about the progress of the measures.

20. Case of Lysias Fleury (Haiti): *Merits and possible reparations.* On February 1, 2010, the Court issued an order in which, owing to the earthquake in Haiti, it decided to declare that, at that time, it was not possible for the State to comply with the time frame established in the Rules of Procedure for answering the application and submitting observations on the pleadings and motions brief of the alleged victim's representatives. Consequently, it decided that, during the first session in 2011, it would determine how to continue processing the case and, in particular, how to calculate the said time frame for the State to answer the application and to submit observations on the pleadings and motions brief.

21. Case of Rosendo Cantú et al. (México): *Provisional measures.* On February 2, 2010, the Court issued an order in which it required the State to adopt immediately all necessary measures to protect the life and personal integrity of Valentina Rosendo Cantú and Yenis Bernardino Rosendo, based on the particular circumstances and conditions of the case.

²⁰ Ibid.

22. Orders on monitoring compliance with judgment: During this session, the Court issued orders on monitoring compliance with the judgments handed down in the following cases: *Las Palmeras v. Colombia* (**Annex 9**), *Serrano Cruz Sisters v. El Salvador* (**Annex 10**), *García Prieto et al. v. El Salvador* (**Annex 11**), *El Amparo v. Venezuela* (**Annex 12**) and *Cesti Hurtado v. Peru* (**Annex 13**).

B. Eighty-seventh regular session of the Court

From May 17 to 28, 2010, the Court held its eighty-seventh regular session in San José, Costa Rica. With the following members: Diego García-Sayán (Peru), President; Leonardo A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay); Eduardo Vio Grossi (Chile). The following judges *ad hoc* also took part in the session: Roberto de Figueiredo Caldas, appointed by the State of Brazil for the case of *Gomes Lund et al.*; Alejandro Carlos Espinosa, appointed by the State of Mexico for the case of *Rosendo Cantú et al.*, and María Eugenia Solís García, appointed by the State of Guatemala for the case of *Chitay Nech et al.* The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session, the Court held two public hearings on contentious cases, two public hearings concerning provisional measures and three private hearings on monitoring compliance with judgment. In addition, it delivered two judgments in contentious cases, both on preliminary objections, merits, reparations and costs; it also issued five orders on provisional measures and eight orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Matter of the Jiguamiandó and the Curbaradó Communities (Colombia): *Provisional measures.* On May 19, 2010, during a public hearing, the Court heard the arguments of the Inter-American Commission, the representatives of the beneficiaries of the provisional measures and the State of Colombia, concerning the provisional measures in force in this matter.

2. Matter of the Peace Community of San José de Apartadó (Colombia): *Provisional measures.* On May 19, 2010, during a public hearing, the Court heard the arguments of the Inter-American Commission, the representative of the beneficiaries of the provisional measures and the State of Colombia, concerning the provisional measures in force in this matter.

3. Medical and psychological attention in the cases of the 19 Tradesmen, the Mampirán Massacre, Gutiérrez Soler, the Pueblo Bello Massacre, the La Rochela Massacre, the Ituango Massacres, Escué Zapata and Valle Jaramillo (Colombia): *Monitoring compliance with judgment.* On May 19, 2010, during a private hearing, the Court heard the arguments of the victims' representatives, the Inter-American Commission and the State of Colombia, in order to obtain information on compliance with the measure of reparation relating to medical and psychological attention ordered in favor of the victims and their families in the eight Colombian cases mentioned above.

4. Case of Gomes Lund et al. (Brazil): *Preliminary objections and possible merits, reparations and costs.* On May 20 and 21, 2010, during a public hearing, the Court received the testimony of the alleged victims, witnesses and expert witnesses

proposed by the representatives of the alleged victims, the Inter-American Commission, and the State. The Court also heard the final oral arguments of the parties on the preliminary objections and possible merits, reparations and costs in this case.

5. Matter of Juan Almonte Herrera et al. (Dominican Republic):²¹

Provisional measures. On May 25, 2010, the Court issued an order on provisional measures in this matter (**Annex 14**), in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of Human Rights of March 24, 2010, and, consequently, to require the State to maintain any measures it was implementing, and to adopt, immediately, all complementary measures required to protect the life, and personal liberty and personal integrity of Juan Almonte Herrera, and the life and integrity of Yuverky Almonte Herrera, Joel Almonte, Genaro Rincón and Francisco de León Herrera, as well as of Ana Josefa Montilla, if she should decide to return to the Dominican Republic, and to require the State to take all pertinent steps to ensure that the measures of protection ordered are planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the said measures are provided diligently and effectively and, in general, to keep them informed of any progress in their execution.

6. Case of Chitay Nech et al. (Guatemala): *Judgment on preliminary objections, merits, reparations and costs.* On May 25, 2010, the Court delivered judgment on the preliminary objections, the merits, reparations and costs in this case (**Annex 15**), in which it decided to declare partially admissible the preliminary objection of failure to exhaust domestic remedies filed by the State and to declare inadmissible the alleged preliminary objection of “reaching a friendly settlement,” filed by the State.

In addition, the Court accepted the partial acknowledgement of international responsibility made by the State and declared that: the State was responsible for the forced disappearance of Florencio Chitay Nech and, consequently, had violated the rights embodied in Articles 7(1) (Right to Personal Liberty), 5(1) and 5(2) (Right to Humane Treatment), 4(1) (Right to Life), 3 (Right to Juridical Personality) and 23(1) (Right to Participate in Government) of the American Convention, in relation to Article I(1) (Obligation to Respect Rights) of the Convention, and also in relation to Article I(a) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Florencio Chitay Nech; 22 (Freedom of Movement and Residence) and 17 (Rights of the Family) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of Encarnación and Pedro Chitay Rodríguez; 22 (Freedom of Movement and Residence), 17 (Rights of the Family) and 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Eliseo, Estermerio and María Rosaura Chitay Rodríguez; Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Encarnación, Pedro, Eliseo, Estermerio and María Rosaura Chitay Rodríguez, as well as failure to comply with the obligation embodied in Article I(b) of the Inter-American Convention on

²¹ Judge Rhadys Abreu Blondet, a Dominican national, recused herself from hearing the processing of these provisional measures, in accordance with Articles 19 of the Court’s Statute and 21 of the current Rules of Procedure approved by the Court at its eighty-fifth regular session held from November 16 to 28, 2009; the Court accepted her recusal.

Forced Disappearance of Persons; and Article 5(1) (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of Encarnación, Pedro, Eliseo, Estermerio, and María Rosaura Chitay Rodríguez; it was not demonstrated the violation by the State of Article 2 (Domestic Legal Effects) of the American Convention had not been proved, and nor had failure to comply with Articles II and III of the Inter-American Convention on Forced Disappearance of Persons, and it was not incumbent on the Court to rule on the alleged violation of the right embodied in Article 21 (Right to Property) of the American Convention.

Regarding reparations, the Court ordered, *inter alia*, that the State: conduct an effective investigation into the detention and subsequent forced disappearance of Florencio Chitay Nech with due diligence, in order to determine the corresponding criminal responsibilities and apply the punishments and consequences established by law; continue the search for and discovery of Florencio Chitay Nech; publish specific parts of the judgment in the official gazette and an official summary of the judgment in another newspaper with widespread national circulation, and broadcast this summary by radio in Spanish and in Maya *Kaqchikel* (*indigenous language*); publish the judgment in its entirety on the State's official web site; organize a public act to acknowledge international responsibility in relation to the facts of this case and to restore the memory of Florencio Chitay Nech. In addition, that it place a commemorative plaque with the name of Florencio Chitay Nech in San Martín Jilotepeque, Chimaltenango, describing his activities; provide free medical and psychological treatment in Guatemala to the persons declared victims in the judgment who request this, and pay compensation for pecuniary and non-pecuniary damage and reimbursement of costs.

7. Case of Manuel Cepeda Vargas (Colombia): *Judgment on preliminary objections, merits and reparations.* On May 26, 2010, the Court delivered judgment on the preliminary objections, merits and reparations in this case (**Annex 16**), in which it decided to reject the first, second and fourth preliminary objections filed by the State and to declare its third preliminary objection inadmissible.

In addition, the Court accepted the State's partial acknowledgement of international responsibility and declared that: the State had violated the rights established in Articles 4(1) (Right to Life) and 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Senator Manuel Cepeda Vargas; the State had violated the rights established in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that same instrument, to the detriment of Senator Manuel Cepeda Vargas and his next of kin; the State had violated the rights established in Articles 11 (Right to Privacy), 13(1) (Freedom of Thought and Expression), 16 (Freedom of Association) and 23 (Right to Participate in Government) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Senator Manuel Cepeda Vargas; the State had violated the rights established in Articles 5(1) (Right to Humane Treatment), 11 (Right to Privacy) and 22(1) (Freedom of Movement and Residence) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Iván Cepeda Castro, María Cepeda Castro, Olga Navia Soto, Claudia Girón Ortiz, María Estella Cepeda Vargas, Ruth Cepeda Vargas, Gloria María Cepeda Vargas, Álvaro Cepeda Vargas and Cecilia Cepeda Vargas, and it was not incumbent on the Court to rule on the alleged violation of Articles 41 and 44 of the American Convention, to the detriment of

Senator Manuel Cepeda Vargas, or on the alleged failure to comply with Article 2 (Domestic Legal Effects) thereof.

Regarding reparations, the Court ordered, *inter alia*, that the State: conduct the domestic investigations that were underway effectively as well as any that were opened to identify, prosecute and, if appropriate, punish all those responsible for the extrajudicial execution of Senator Manuel Cepeda Vargas; adopt all necessary measures to guarantee the safety of the next of kin of Senator Manuel Cepeda Vargas, and to avoid them having to move or leave the country again as a result of threats, and acts of harassment or persecution against them following notification of the judgment; publish in the Official Gazette and in another national newspaper, specific paragraphs of the judgment and publish it in its entirety for at least one year on an official State web site; organize a public act of acknowledgement of international responsibility for the facts of the case; produce a publication and an audio-visual documentary on the career of Senator Manuel Cepeda Vargas in politics and journalism and on his political leadership, in coordination with his next of kin and disseminate it; award a grant named after Manuel Cepeda Vargas; provide any medical and psychological treatment required by the victims, and pay specific amounts as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses.

Judges Diego García-Sayán and Eduardo Vio Grossi informed the Court of their separate concurring opinions and Judges Manuel E. Ventura Robles and Alberto Pérez Pérez informed the Court of their partially dissenting opinions.

8. Case of Yatama (Nicaragua): *Monitoring compliance with judgment.* On May 26, 2010, during a private hearing, the Court heard the arguments of the parties on compliance with the judgment handed down by the Court in this case.

9. Case of Heliodoro Portugal (Panama): *Monitoring compliance with judgment.* On May 26, 2010, during a private hearing, the Court heard the arguments of the parties on compliance with the judgment handed down by the Court in this case.

10. Matter of Alvarado Reyes et al. (Mexico): *Provisional measures.* On May 26, 2010, the Court issued an order on provisional measures in this matter (**Annex 17**), in which it decided, *inter alia*, to require the State to adopt, immediately, all necessary measures to determine as soon as possible the whereabouts of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, as well as to protect their personal liberty, their personal integrity and their life, and to require the State to report to the Inter-American Court on the provisional measures adopted.

11. Case of Rosendo Cantú et al. (Mexico): *Preliminary objection and possible merits, reparations and costs.* On May 27, 2010, during a public hearing, the Court heard the testimony of a alleged victim, a witness and an expert witness proposed by the representatives of the alleged victims and the Inter-American Commission. The Court also heard the final oral arguments of the parties on the preliminary objection and on possible merits, reparations and costs in this case.

12. Matter of Four Ngöbe Indigenous Communities and their members (Panama): *Provisional measures.* On May 28, 2010, the Court issued an order on the request for the adoption of provisional measures in this matter (**Annex 18**), in

which it decided, *inter alia*, to reject the said request submitted by the Inter-American Commission.

13. Matter of Wong Ho Wing (Peru):²² *Provisional measures.* On May 28, 2010, the Court issued an order on provisional measures in this matter (**Annex 19**), in which it decided, *inter alia*, to require the State to abstain from extraditing Wong Ho Wing until December 17, 2010, to allow the Inter-American Commission to examine and rule on the petition filed before the said organ on March 27, 2009.

14. Matter of COFAVIC (Case of El Caracazo) (Venezuela). *Provisional measures.* On May 28, 2010, the Court issued an order on provisional measures in this matter (**Annex 20**), in which it decided, *inter alia*, to reject the request for provisional measures filed by the representatives and to incorporate the respective documentation as an annex to the file on monitoring compliance with the judgment on reparations and costs of August 29, 2002, in *El Caracazo v. Venezuela*.

15. Orders on monitoring compliance with judgment: During this regular session the Court issued orders on monitoring compliance with the judgments delivered in the following cases: *Ituango Massacres v. Panama* (**Annex 21**), *Heliodoro Portugal v. Panama* (**Annex 22**), *Yatama v. Nicaragua* (**Annex 23**), *Baena Ricardo et al. v. Panama* (**Annex 24**), *Chaparro Álvarez and Lapo Iñiguez v. Ecuador* (**Annex 25**), *Escué Zapata v. Colombia* (**Annex 26**), *Kimel v. Argentina* (**Annex 27**), *Escher et al. v. Brazil* (**Annex 28**) and *Ximenes Lopes v. Brazil* (**Annex 29**).

C. Eighty-eighth regular session of the Court

From August 23 to September 4, 2010, the Court held its eighty-eighth regular session in San José, Costa Rica. With the following members: Diego García-Sayán (Peru), President; Leonardo A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay); Eduardo Vio Grossi (Chile). The following judges *ad hoc* also took part in the session: Augusto Fogel Pedroso, appointed by the State of Paraguay for the case of the Xákmok Kásek Indigenous Community; Eduardo Ferrer MacGregor Poisot, appointed by the State of Mexico for the case of *Cabrera García and Montiel Flores*, and Alejandro Carlos Espinosa, appointed by the State of Mexico for the cases of *Inés Fernández Ortega* and *Rosendo Cantú et al.* The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session the Court held two public hearings on contentious cases, one public hearing concerning provisional measures and two private hearings on monitoring compliance with judgment. In addition, it handed down four judgments on contentious cases, issued five orders on provisional measures, one order on an application to access the victims' legal assistance fund, and eight orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

²² Judge Diego García Sayán, a Peruvian national, recused himself from hearing this case, in accordance with Articles 19 of the Court's Statute and 21 of its Rules of Procedure; the Court accepted his recusal. Consequently, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this matter.

1. Case of the Xákmok Kásek Indigenous Community (Paraguay):

Judgment on merits, reparations and costs. On August 24, 2010, the Court delivered judgment on the merits, reparations and costs in this case (**Annex 30**), deciding to reject the State's request to suspend litigation, and declared, *inter alia*, that: the State had violated the rights embodied in Articles 21(1) (Right to Property), 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of the members of the Xákmok Kásek Community; the State had violated the right embodied in Article 4(1) (Right to Life) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of all the members of the Xákmok Kásek Community; the State had violated the right established in Article 4(1) (Right to Life) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of thirteen individualized victims; the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of all the members of the Xákmok Kásek Community; the State had violated the right established in Article 3 (Right to Juridical Personality) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of nineteen individualized victims; the State had not violated the right established in Article 3 (Right to Juridical Personality) of the American Convention, to the detriment of the Xákmok Kásek Community; the State had violated the right embodied in Article 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of all the children of the Xákmok Kásek Community; the State had failed to comply with the obligation not to discriminate, contained in Article 1(1) (Obligation to Respect Rights) of the American Convention, in relation to the rights recognized in Articles 21(1) (Right to Property), 8(1) (Right to a Fair Trial), 25(1) (Right to Judicial Protection), 4(1) (Right to Life), 3 (Right to Juridical Personality), and 19 (Rights of the Child) of that instrument, and the State had expressed its acceptance of specific reparations, which the Court assessed positively.

Regarding reparations, the Court ordered, *inter alia*, that the State must: return to the Community the 10,700 hectares of land claimed; ensure that the land claimed by the Community was not adversely affected by any action of the State or of third parties; remove the formal obstacles to granting title to the 1,500 hectares where the Community is currently settled, known as "25 de Febrero"; grant title to the 1,500 hectares in "25 de Febrero" in favor of the members of the Xákmok Kásek Community; organize a public act to acknowledge the international responsibility of the State; publish the judgment or specific parts of it in the Official Gazette and on the official web site, and also publish the summary prepared by the Court in a newspaper with widespread circulation, and disseminate the official summary prepared by the Court on a radio station with broad coverage in the Chaco region; to this end, the summary must be translated into the *Sanapaná*, *Exent* and *Guaraní* languages. As measures of rehabilitation, the Court ordered the State: while organizing the handing over of the traditional land or alternative lands, to adopt, immediately, periodic and permanent measures to ensure a sufficient supply of drinking water; to provide a psychosocial and medical examination and also treatment to all the members of the Community, and specialized medical care for pregnant women; to deliver sufficient nutritious food; to install sufficient and satisfactory latrines, and to supply the school with materials and resources to guarantee access to basic education, ensuring respect for the community's cultural traditions and languages; prepare a study on the measures mentioned in the

previous point; establish a permanent health post in "25 de Febrero" with the necessary medicines and inputs to provide adequate health care; to establish a communication system in "25 de Febrero" and ensure that the health post and the communication system were transferred to the place where the Community settled, once it recovers its traditional lands. In addition, the Court ordered the State: to carry out a registration and documentation program; to adopt in its domestic law the legislative, administrative or any other measures required to create an effective system for the indigenous people to reclaim their ancestral or traditional lands and which enabled them to realize their right to property; to adopt immediately the necessary measures to ensure that Decree No 11,804 declaring part of the territory claimed by the Community as a protected wooded area does not constitute an obstacle for the return of the traditional lands; to pay the amounts established as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, and to set up a community development fund.

Judge Eduardo Vio Grossi informed the Court of his concurring opinion and Judge *ad hoc* Augusto Fogel Pedrozo informed the Court of his concurring and dissenting opinion, which accompany the judgment.

2. Case of Vélez Loor (Panama): Preliminary objections and possible merits, reparations and costs. On August 25 and 26, 2010, at a public hearing, the Court received the testimony of the alleged victim, a witness proposed by the State and two expert witnesses proposed by the representatives of the alleged victim and the Inter-American Commission. The Court also heard the final oral arguments of the parties on the preliminary objections and possible merits, reparations and costs in this case.

3. Case of Cabrera García and Montiel Flores (Mexico): Preliminary objection and possible merits, reparations and costs. On August 26 and 27, 2010, at a public hearing, the Court received the testimony of one of the alleged victims and three expert witnesses proposed by the representatives of the alleged victims, the Inter-American Commission, and the State. The Court also heard the final oral arguments of the parties on the preliminary objection and the possible merits, reparations and costs in this case.

4. Case of the 19 Tradesmen (Colombia): Provisional measures. On August 26, 2010, the Court issued an order on provisional measures in this case (**Annex 31**), in which it decided, *inter alia*, to continue monitoring compliance with the obligation to guarantee the life, integrity and safety of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo Delgado de Chaparro, Suney Dinora Jáuregui Jaimes, Ofelia Sauza Suárez de Uribe, Rosalbina Suárez Bravo de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Viviescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes, and their next of kin, within the framework of the implementation of the provisional measures; to require the State of Colombia to maintain any measures that it had adopted and to adopt, immediately, the necessary measures to protect the rights to life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia and William Rodríguez Quintero and, to this end, it must allow the beneficiaries of the measures or their representatives to take part in the planning and implementation of the measures and, in general, keep them informed of any progress in execution of the measures; to lift and conclude the provisional measures awarded in favor of Salomón Flórez Contreras, Sandra Belinda Montero Fuentes and

their respective families, and to declare that the provisional measures ordered by the Inter-American Court in favor of Luis José Pundor Quintero and his family would not be in force while they resided outside Colombia.

5. Case of Fernández Ortega et al. (Mexico): Judgment on preliminary objection, merits, reparations and costs. On August 30, 2010, the Court delivered judgment on the preliminary objection, the merits, reparations and costs in this case (**Annex 32**), in which it decided to admit the withdrawal of the preliminary objection filed by the State and to accept the partial acknowledgement of international responsibility by Mexico.

In addition, the Court declared, *inter alia*, that: the State was responsible for violating the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment) and 11(1) and 11(2) (Right to Privacy) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) thereof and Articles 1, 2 and 6 of the Inter-American Convention to Prevent and Punish Torture, as well as for failure to comply with the obligation established in Article 7(a) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, to the detriment of Mrs. Fernández Ortega; the State was responsible for violating the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Prisciliano Sierra and of Noemí, Ana Luz, Colosio, Nérida, and Neftalí Prisciliano Fernández; it had no evidence to prove the existence of a violation of the right to humane treatment to the detriment of María Lidia Ortega or of Lorenzo and Ocotlán Fernández Ortega; the State was responsible for violating the right embodied in Article 11(2) (Right to Privacy) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mrs. Fernández Ortega, Prisciliano Sierra and Noemí, Ana Luz, Colosio and Nérida Prisciliano Fernández, and the State was responsible for violating the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, to the detriment of Mrs. Fernández Ortega: (a) in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and (b) in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention, and it had failed to comply with the obligation established in Article 7(b) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women. Furthermore, Mexico had failed to comply with the obligation to ensure, without discrimination, the right of access to justice established in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of Mrs. Fernández Ortega; the State was not responsible for failing to comply with Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture to the detriment of Mrs. Fernández Ortega, and it was not incumbent on the Court to rule on the alleged violation of Article 16 of the American Convention.

Regarding reparations, the Court ordered, *inter alia*, that the State: conduct the investigation that it was processing and, if applicable, criminal proceedings, in relation to the rape of Mrs. Fernández Ortega under the civil justice system, effectively and within a reasonable time in order to determine the corresponding criminal responsibilities and apply, as appropriate, the punishments and other consequences established by law. In addition, that it: adopt, within a reasonable time, the pertinent legislative reforms to make article 57 of the Code of Military Justice compatible with the corresponding international standards; adopt the

pertinent reforms to permit those adversely affected by the intervention of the military justice system to have an effective remedy to contest this jurisdiction; organize a public act in acknowledgement of international responsibility in relation to the facts of the case; make certain publications of the judgment; provide the medical and psychological treatment required by the victims; continue the process of standardizing a protocol for procedures for handling and investigating rape at the federal level and in the state of Guerrero; continue implementing permanent training programs and courses for officials with a gender and an ethnic perspective on the diligent investigation of cases involving the sexual abuse of women; implement a permanent and obligatory training and education program or course on human rights for members of the Armed Forces; award Mrs. Fernández Ortega's children scholarships to study in Mexican public institutions; facilitate the necessary resources for the Me'paa indigenous community of Barranca Tecoani to establish a community center, set up as a women's center, in which educational activities on human rights and women's rights were provided; adopt measures to ensure that the girls from the community of Barranca Tecoani who attend high school in the city of Ayutla de los Libres had adequate accommodation and meals to enable them to continue receiving their education in the institutions they attend and, notwithstanding the foregoing, the State could comply with this measures by opting to establish a high school in the said community; ensure that services for women victims of rape are provided by state institutions, including the Public Prosecutor's office in Ayutla de los Libres, by providing material and human resources, enhancing these actions with training activities, and pay the amounts established as compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses.

Judge Alejandro Carlos Espinosa informed the Court of his concurring opinion, which accompanies the judgment.

6. Matter of the Jiguamiandó and the Curbaradó Communities (Colombia): *Provisional measures.* On August 30, 2010, the Court issued an order on provisional measures in this matter (**Annex 33**), in which it decided, *inter alia*, to reiterate to the State of Colombia that it must adopt, immediately, all necessary measures to protect the life and personal integrity of the members of the communities constituted by the Community Council of the Jiguamiandó and the families of the Curbaradó beneficiaries of the measures; to reiterate to the State of Colombia that it must establish a permanent monitoring and communication mechanism in the so-called "humanitarian refuge areas"; to reiterate to the State of Colombia that it must allow the representatives appointed by the beneficiaries of these measures to take part in the planning and implementation of the measures and, in general, keep them informed of progress in the measures ordered by the Inter-American Court and, lastly, not to grant the requests to expand the provisional measures submitted by the representatives.

7. Matter of the Peace Community of San José de Apartadó (Colombia): *Provisional measures.* On August 30, 2010, the Court issued an order on provisional measures in this matter (**Annex 34**), in which it decided, *inter alia*, to reiterate to the State that it must maintain any measures it had adopted and order immediately those necessary to provide effective protection to the life and personal integrity of all the members of the Peace Community of San José de Apartadó, and to reiterate to the State and to the beneficiaries or their representative that they must make every effort to reach a consensus allowing the beneficiaries of the measures or their representatives to take part in the planning and implementation of the measures

and, in general, keep them informed of progress in the measures ordered by the Inter-American Court.

8. Case of Rosendo Cantú et al. (Mexico): *Judgment on preliminary objection, merits, reparations and costs.* On August 31, 2010, the Court delivered judgment on the preliminary objection, the merits, reparations and costs in this case (**Annex 35**), deciding to admit the withdrawal of the preliminary objection filed by the State and to accept the State's partial acknowledgement of international responsibility.

In addition, the Court declared, *inter alia*, that: the State was responsible for violating the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), and 11(1) and 11(2) (Right to Privacy) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and Articles 1, 2 and 6 of the Inter-American Convention to Prevent and Punish Torture, as well as for failing to comply with the obligation established in Article 7(a) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, to the detriment of Mrs. Rosendo Cantú; the State was responsible for violating the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Yenys Bernardino Sierra; it was not incumbent on the Court to rule on the alleged violation of Article 5(1) (Right to Humane Treatment) of the American Convention, to the detriment of Victoriano Rosendo Morales, María Cantú García and the brothers and sisters of Mrs. Rosendo Cantú, and the State was responsible for violating the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, to the detriment of Mrs. Rosendo Cantú in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and failed to comply with the obligation established in Article 7(b) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women. Furthermore, Mexico failed to comply with the obligation to ensure, without discrimination, the right of access to justice established in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of Mrs. Rosendo Cantú; the State was not responsible for failing to comply with Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture to the detriment of Mrs. Rosendo Cantú, and the State was responsible for violating the right embodied in Article 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mrs. Rosendo Cantú.

Regarding reparations, the Court ordered, *inter alia*, that the State: conduct the investigation that it was processing and, if applicable, criminal proceedings, in relation to the rape of Mrs. Rosendo Cantú under the civil justice system, effectively and within a reasonable time in order to determine the corresponding criminal responsibilities and apply, as appropriate, the punishments and other consequences established by law; adopt, within a reasonable time, the pertinent legislative reforms to make article 57 of the Code of Military Justice compatible with the corresponding international standards; adopt the pertinent reforms to permit those adversely affected by the intervention of the military justice system to have an effective remedy to contest this jurisdiction; organize a public act to acknowledge international responsibility in relation to the facts of the case; make certain publications of the judgment; provide the medical and psychological treatment required by the victims; continue the process of standardizing a protocol for handling

and investigating rape at the federal level and in the state of Guerrero; continue implementing permanent training programs and courses for officials, with a gender and an ethnic perspective, on the diligent investigation of cases involving the sexual abuse of women; continue the measures taken concerning human rights training for members of the Armed Forces and implement a permanent and obligatory training and education program or course on human rights for all ranks; award Mrs. Rosendo Cantú and her daughter, Yenys Bernardino Sierra, scholarships to study in Mexican public institutions; continue providing treatment for women rape victims in the Caxitepec health center, which should be reinforced by providing additional human and material resources; ensure that the services of attention to women victims of rape are provided by the state institutions, including the Public Prosecutor's office in Ayutla de los Libres, by providing human and material resources, enhancing these actions with training activities; continue awareness-raising campaigns for the general population on the prohibition of violence and discrimination against indigenous women in all spheres of their life, and on the effects of such conduct, and pay the amounts established as compensation for pecuniary and non-pecuniary damage, and reimbursement of certain costs and expenses.

Judges Rhadys Abreu Blondet and Alejandro Carlos Espinosa informed the Court of their concurring opinions, which accompany the judgment.

9. Case of Ibsen Cárdenas and Ibsen Peña (Bolivia): *Judgment on merits, reparations and costs.* On September 1, 2010, the Court delivered judgment on the merits, reparations and costs in this case (**Annex 36**), in which it decided to accept the State's partial acknowledgement of international responsibility and the measures of reparation implemented by the State. Furthermore, the Court declared that: the State was responsible for violating the rights embodied in Articles 7(1) (Right to Personal Liberty), 5(1) and 5(2) (Right to Humane Treatment), 3 (Right to Juridical Personality) and 4(1) (Right to Life) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof and to Articles I(a) and XI of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Rainer Ibsen Cárdenas and José Luis Ibsen Peña; the State was responsible for violating the right embodied in Article 5(1) and 5(2) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Martha Castro Mendoza and Rebeca, Tito and Raquel Ibsen Castro, and the State was responsible for violating the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof and Article I(b) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Martha Castro Mendoza and Rebeca, Tito and Raquel Ibsen Castro.

Regarding reparations, the Court ordered, *inter alia*, that, in compliance with its obligation to remove all the factual and legal obstacles that maintain impunity in relation to the torture and ill-treatment to which José Luis Ibsen Peña was subjected and regarding the forced disappearance and murder of Rainer Ibsen Cárdenas, the State must initiate all necessary investigation to determine what happened and the corresponding responsibilities. The State shall not apply amnesty laws or argue prescription, non-retroactivity of the criminal law, *res judicata*, or the *non bis in idem* principle, or any other similar mechanism that excludes responsibility to waive this obligation; and conduct a real search for the whereabouts of José Luis Ibsen Peña. In addition, it must publish specific parts of the judgment in the official gazette and an official summary of the judgment on the State's official web site; reach agreement

with the next of kin of Mr. Ibsen Cárdenas and Mr. Ibsen Peña on the designation of a public place with both their names, in which a plaque must be placed alluding to the judgment; provide free medical and psychological or psychiatric treatment in Bolivia to those declared victims in the judgment who request this; implement a training program on the due investigation and prosecution of acts that constitute the forced disappearance of persons for agents of the Public Prosecution Service and judges of the Bolivian court system with jurisdiction concerning facts such as those of this case, and pay compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses. The Court accepted some measures of reparation already made by Bolivia, such as: the acts of acknowledgement of international responsibility organized by the State, the designation of two streets in La Paz with the names of Messrs. Ibsen Cárdenas and Ibsen Peña, and the emission of a commemorative postage stamp for Rainer Ibsen Cárdenas and José Luis Ibsen Peña.

10. Case of Tristán Donoso (Panama): *Monitoring compliance with judgment.* On September 1, 2010, the Court issued an order on monitoring compliance with judgment in this case (**Annex 37**), in which it considered that the Republic of Panama had complied fully with all the measures ordered in the judgment. Among other aspects: to annul the criminal conviction imposed on Tristán Donoso and all the consequences deriving from it; to pay compensation for non-pecuniary damage and reimbursement of costs and expenses, and to publish the judgment. The Inter-American Court highlighted the words of the Panamanian Supreme Court of Justice which had stated that “the Republic of Panama, as a member of the international community, recognizes, respects and obeys the decisions of the Inter-American Court of Human Rights.”

11. Case of the Mapiripán Massacre (Colombia): *Provisional measures.* On September 2, 2010, the Court issued an order on provisional measures in this case (**Annex 38**), in which it decided, *inter alia*, to maintain for a further six months the provisional measures of protection required by the Court in its order of June 27, 2005, in favor of 20 beneficiaries listed in the order; to request the Inter-American Commission on Human Rights and the representatives of the beneficiaries to present information on the actual risk to each beneficiary and on the measures required to overcome the dangerous situation that the beneficiaries face, and to require the State to present a risk assessment regarding the beneficiaries.

12. Matter of Gladys Lanza Ochoa (Honduras): *Provisional measures.* On September 2, 2010, the Court issued an order on provisional measures in this matter (**Annex 39**), in which it decided, *inter alia*, to require the State of Honduras to adopt, immediately, all necessary measures to protect the life and personal integrity of Gladys Lanza Ochoa. In addition, it required the State to provide information on the provisional measures adopted every two months.

13. Case of the Miguel Castro Castro Prison (Peru):²³ *Application to the Victims’ Legal Assistance Fund of the Inter-American Court.* On September 2, 2010,

²³ Judge Diego García Sayán, a Peruvian national, recused himself from hearing this case, in accordance with Article 19 of the Court’s Statute and Article 21 of its Rules of Procedure; the Court accepted his recusal. Accordingly, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this case.

the Court issued an order on the application presented by the common intervenor of the victims' representatives (**Annex 40**) during the stage of monitoring compliance with judgment, to access the said Fund, in which it decided to reject the request filed by Mónica Fera Tinta, common intervenor of the representatives of the victims and their next of kin in the case of the Miguel Castro Castro Prison.

14. Case of the Saramaka People (Suriname): *Monitoring compliance with judgment.* On September 2, 2010, at a private hearing, the Court heard the arguments of the parties on compliance with the judgment on preliminary objections, merits, reparations and costs delivered by the Court on November 28, 2007.

15. Case of Vargas Areco (Paraguay): *Monitoring compliance with judgment.* On September 2, 2010, at a private hearing, the Court heard the arguments of the parties on compliance with the measures of reparation ordered in the judgment on merits, reparations and costs delivered by the Court in this case on September 26, 2006, that are pending fulfillment.

16. Matter of the Forensic Anthropology Foundation (Guatemala): *Provisional measures.* On September 2, 2010, at a private hearing, the Court heard the arguments of the State of Guatemala, the representatives of the beneficiaries and the Inter-American Commission on the implementation of the provisional measures required by the Court in this matter, in its orders of July 4, 2006, November 21, 2007, and January 26, 2009.

17. Case of Chocrón Chocrón (Venezuela): *Preliminary objections:* On September 3, 2010, the acting President of the Inter-American Court issued an order concerning a brief of the State of Venezuela received on May 17, 2010. In this order it declared that: a global attack on the Court, such as the contents of the said brief, was manifestly inadmissible, rejecting the injurious expressions unduly used by the State and warning that any brief containing expressions of that sort would be returned to whoever had presented it without giving it any further attention; the alleged lack of impartiality in the functions performed by some of the Court's judges, which the State presented as a preliminary objection, could not be considered as such; the considerations expressed by the State concerning the judgment delivered in the case of *Usón Ramírez v. Venezuela* were inadmissible, because they did not refer to the case in hand; the State's allegation of lack of impartiality with regard to several of the judges was unfounded, because the latter had not incurred in any of the statutory causes of impediment or performed any act that would allow their impartiality to be questioned; the State's allegations regarding the alleged lack of impartiality of the Secretary of the Court were inadmissible and unfounded, and it was in order for the Court, with all its members, to continue hearing the case in its entirety until its conclusion.

18. Case of López Mendoza (Venezuela): *Preliminary objections.* On September 3, 2010, the acting president of the Inter-American Court of Human Rights issued an order concerning the brief of the State of Venezuela received on June 4, 2010. In this order he declared that: a global attack on the Court such as the contents of the said brief, was manifestly inadmissible, rejecting the injurious expressions unduly used by the State and warning that any brief containing expressions of that sort would be returned to whoever had presented it without giving it any further attention. The alleged lack of impartiality in the functions performed by some of the Court's judges, which the State presented as a preliminary objection, could not be considered as such; the considerations expressed by the

State concerning the judgment delivered in the case of *Usón Ramírez v. Venezuela* were inadmissible, because they did not refer to the case in hand; the State's allegation of lack of impartiality with regard to several of the judges was unfounded, because the latter had not incurred in any of the statutory causes of impediment or performed any act that would allow their impartiality to be questioned; the State's allegations regarding the alleged lack of impartiality of the Secretary of the Court were inadmissible and unfounded, and it was in order for the Court, with all its members, to continue hearing the case in its entirety until its conclusion.

19. Orders on monitoring compliance with judgments: During this session, the Court issued orders on monitoring compliance with the judgments handed down in the following cases: *Ivcher Bronstein v. Peru* (**Annex 41**), *La Rochela Massacre v. Colombia* (**Annex 42**), *Cantos v. Argentina* (**Annex 43**), *García Prieto et al. v. El Salvador* (**Annex 44**), *Albán Cornejo et al. v. Ecuador* (**Annex 45**), *the Yean and Bosico Girls v. Dominican Republic* (**Annex 46**), *De la Cruz Flores v. Peru* (**Annex 47**) and *Tristán Donoso v. Panama* (**Annex 48**).

D. Eighty-ninth regular session of the Court

From November 21 to 27, 2010, the Court held its eighty-ninth regular session in San José, Costa Rica, with the following members: Diego García-Sayán (Peru), President; Leonardo A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The following judges *ad hoc* also took part in the session: Eduardo Ferrer MacGregor Poisot, appointed by the State of Mexico for the case of *Cabrera García and Montiel Flores*, and Roberto de Figueiredo Caldas, appointed by the State of Brazil for the case of *Gomes Lund et al. (Guerrilha do Araguaia)*. The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

Specifically for the case of *Salvador Chiriboga v. Ecuador*, the Court was composed as follows:²⁴ Diego García-Sayán (Peru), President in exercise; Sergio García Ramírez (Mexico); Manuel E. Ventura Robles (Costa Rica); Leonardo A. Franco (Argentina); Margarette May Macaulay (Jamaica) and Rhadys Abreu Blondet (Dominican Republic). Diego Rodríguez-Pinzón participated in this case as Judge *ad hoc*.

During this session the Court delivered three judgments in contentious cases, all of them on preliminary objections, merits, reparations and costs; issued nine orders on provisional measures and ten orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of Salvador Chiriboga (Ecuador): *Judgment on reparations and costs.* On November 21, 2010, the Court deliberated on the judgment on reparations and costs in this case.

²⁴ Judge Cecilia Medina Quiroga advised the Court that, for reasons beyond her control, she would be unable to attend the deliberation and signature of the judgment. Consequently, in keeping with Article 4(2) of the Rules of Procedure, Judge Medina Quiroga ceded the Presidency to the Vice President of the Court at the time, Judge Diego García-Sayán, President *ad interim* for this case.

2. Case of Herrera Ulloa (Costa Rica):²⁵ *Monitoring compliance with judgment.* On November 22, 2010, the Court issued an order on monitoring compliance with judgment in this case (**Annex 49**), in which it decided, *inter alia*, to conclude the case of Herrera Ulloa, because the Republic of Costa Rica had complied fully with the aspects ordered in the judgment handed down by the Inter-American Court on July 2, 2004, and to close the case file. The Court assessed positively the measures taken by Costa Rica to comply with the judgment; specifically owing to the extreme complexity of the matter and of the measures required to comply with the judgment. It also assessed positively the enactment of Law No. 8,503 "Law on the initiation of criminal cassation," as well as the fact that this was enacted one year and seven months after notification of the judgment; also that the Judiciary had adopted "immediate measures" in order to adapt judicial practice to the provisions of the judgment, and that the State considered that the reforms introduced by Law No. 8,503 required improvement and, *moto proprio*, had begun a new process of legal reform concluding with the enactment of Law No. 8,837.

3. Case of Vélez Loor (Panama): *Judgment on preliminary objections, merits, reparations and costs.* On November 23, 2010, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case (**Annex 50**), in which it decided to reject the first and second preliminary objections filed by the State, to partially accept the first question posed by the State as a preliminary issue, to reject the second question posed by the State as a preliminary issue, and to accept the State's partial acknowledgement of international responsibility. In addition, the Court declared: the State responsible for violating the rights recognized in Article 7(1), 7(3), 7(4), 7(5) and 7(6) (Right to Personal Liberty) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Jesús Tranquilino Vélez Loor; Article 8(1), 8(2)(b), (c), (d), (e), (f) and (h) (Right to a Fair Trial) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of that instrument, to the detriment of Jesús Tranquilino Vélez Loor; Article 9 (Freedom from *Ex Post Facto* Laws) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Jesús Tranquilino Vélez Loor; Article 5(1) and 5(2) (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and for failure to comply with Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Jesús Tranquilino Vélez Loor, and 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Jesús Tranquilino Vélez Loor.

Regarding reparations, the Court ordered, *inter alia*, that the State: pay the amount established in the judgment for specialized psychological and medical treatment, as well as medicines and other related future expenses; continue the criminal investigation into the facts reported by Mr. Vélez Loor effectively, with the greatest diligence, and within a reasonable time, in order to determine the corresponding criminal responsibilities and apply, if appropriate, the punishments and other consequences established by law; take the necessary measures to provide establishments with sufficient capacity to accommodate all those whose detention is necessary and proportionate in migratory cases, that are specifically adapted to

²⁵ Judge Manuel E. Ventura Robles, a Costa Rican national, was not a member of the Court in this case; consequently, he did not take part in the deliberation and signature of this order.

these purposes, that offer the material conditions and a regime adapted to migrants, and that are staffed by duly qualified and trained civilian personnel; implement an education and training program for the personnel of the National Migration and Naturalization Service, as well as for other officials who, based on their mandate, deal with migrants, on international standards on the human rights of migrants, guarantees of due process and the right to consular assistance; implement training programs on the obligation to initiate investigations *ex officio* whenever there is a report or sufficient reason to believe that an act of torture has been committed within its jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police and personnel from the health sector who deal with this type of case and, owing to their functions, are the first responders for victims of torture, and pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, as applicable.

4. Case of Fernández Ortega et al. (Mexico): Provisional measures. On November 23, 2010, the Court issued an order on provisional measures in this case (**Annex 51**), in which it decided, *inter alia*, to reject the request to expand the provisional measures.

5. Case of Gomes Lund et al. "Guerrilha do Araguaia" (Brazil): Judgment on preliminary objections, merits, reparations and costs. On November 24 2010, the Court delivered judgment on the preliminary objections, merits, reparations and costs in this case (**Annex 52**), in which it decided to admit partially the preliminary objection of lack of temporal competence filed by Brazil and to reject the State's other preliminary objections. In addition, the Court declared that: the provisions of the Brazilian Amnesty Law that impede the investigation and punishment of grave human rights violations are incompatible with the American Convention, lack legal effect and must not continue to represent an obstacle to investigating the facts of this case, or to the identification and punishment of those responsible; furthermore, it must not have the same or a similar impact on other cases of grave violations of the human rights embodied in the American Convention that have occurred in Brazil; the State was responsible for violating the rights established in Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the persons indicated in paragraph 125 of the judgment; the State had violated the obligation contained in Article 2 (Domestic Legal Effects) of the American Convention in relation to Articles 8(1) (Right to a Fair Trial), 25 (Right to Judicial Protection) and 1(1) (Obligation to Respect Rights) thereof, as a result of the way in which it has interpreted and applied the Amnesty Law in the case of grave human rights violations; the State was responsible for violating the rights established in Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of the next of kin of the disappeared and of the person executed indicated in paragraphs 180 and 181 of the judgment; the State was responsible for violating the right embodied in Article 13 (Freedom of Thought and Expression) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of this instrument; of Article 8(1) (Right to a Fair Trial) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 13(1) (Freedom of Thought and Expression) thereof to the detriment of the next of kin indicated in paragraphs 212, 213 and 225 of the judgment, and the State was responsible for violating the right embodied in Article 5(1) (Right to Humane Treatment) of the Convention, in relation to Article

1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin indicated in paragraphs 243 and 244 of the judgment.

Regarding reparations the Court ordered, *inter alia*, that the State: conduct the criminal investigation into the facts of this case in the ordinary jurisdiction in order to clarify them, to determine the corresponding criminal responsibilities and to apply the punishments and consequences established by law; make every effort to determine the whereabouts of the disappeared victims and, if applicable, identify and return their mortal remains to their next of kin; provide the medical and psychological or psychiatric treatment that the victims require and, as appropriate, pay the amount established in the judgment; make the publications ordered in the judgment; organize a public act of acknowledgement of international responsibility for the facts of this case; continue the training activities that are underway and implement a permanent and obligatory course or program on human rights for all ranks of the Armed Forces; adopt all necessary measures to define forced disappearance as a crime in accordance with the inter-American standards and, while complying with this measure, the State must take all those measures that guarantee the effective prosecution and, when appropriate, punishment of acts that constitute forced disappearance through the existing mechanisms of its domestic law; continue the search initiatives, and the systematization and publication of all the information on the *Guerrilha do Araguaia*, and on the human rights violations that took place during the military regime, ensuring access to this information; pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses; publish an announcement in at least one national newspaper and one newspaper in the region where the facts of the case occurred, or use another appropriate mechanism so that, for 24 months from notification of the judgment, the next of kin of the persons indicated in the judgment may provide proof of their identity so that the State may identify them and, if appropriate, consider them victims in the terms of Law No. 9,140/95 and of this judgment, and, for six months from notification of the judgment, allow the next of kin of Francisco Manoel Chaves, Pedro Matias de Oliveira ("Pedro Carretel"), Hélio Luiz Navarro de Magalhães and Pedro Alexandrino de Oliveira Filho, to submit, if they so wish, an application for compensation under the criteria and mechanisms established in domestic law by Law No. 9,140/95.

Judge Roberto de Figueiredo Caldas informed the Court of his separate concurring opinion, which accompanies the judgment.

6. Case of the Dismissed Congressional Employees (Aguado Alfaro et al.) (Peru):²⁶ *Provisional measures and monitoring compliance with judgment.* On November 24 2010, the Court issued an order on provisional measures and on monitoring compliance with judgment in this case (**Annex 53**), in which it decided, *inter alia*, to require the State of Peru to adopt all necessary measures to comply promptly and effectively with the pending aspects of the judgment on preliminary objections, merits, reparations and costs, to reject the request for provisional measures presented by several victims, and to require the State to continue

²⁶ Judge Diego García Sayán, a Peruvian national, did not take part in the deliberation and signature of this order, in accordance with Articles 19 of the Court's Statute and 21 of its Rules of Procedure in force at the time (currently Article 21). Consequently, for the effects of monitoring compliance with judgment in this case, the Vice President of the Court, Judge Leonardo A. Franco, has acted as President *ad interim*.

informing the Court periodically about the measures adopted to comply with the reparations ordered.

7. Matter of the Aragua Detention Center "Tocorón Prison" (Venezuela):

Provisional measures. On November 24 2010, the Court issued an order on provisional measures in this matter (**Annex 54**), in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of Human Rights of November 1, 2010, and, consequently, to require the State to maintain any measures it was implementing, and also to adopt, immediately and definitively, any complementary measures to avoid the loss of life and harm to the physical, mental and moral integrity of all those deprived of liberty in the Aragua Detention Center, also known as the Tocorón Prison, as well as any person who is within this establishment, and to require the State to take all pertinent steps to ensure that the measures of protection required in the order are planned and implemented with the participation of the representatives of the beneficiaries and that, in general, it keep them informed of progress in the execution of the measures.

8. Case of Eloísa Barrios et al. (Venezuela): *Provisional measures.*

On November 25 2010, the Court issued an order on provisional measures in this case (**Annex 55**), in which it declared that the death of Rigoberto Barrios on January 19, 2005, of Oscar Barrios on November 28, 2006, and the recent death of Wilmer José Flores Barrios on September 1, 2010, reveal the ineffectiveness of the provisional measures, which represents a serious failure by the State to comply with Article 63(2) of the American Convention of Human Rights and decided, *inter alia*: to maintain the provisional measures required by the Inter-American Court of Human Rights in its orders of November 23, 2004, June 29 and September 22, 2005, and February 4, 2010; to require the State to adopt immediately and effectively all necessary and special measures to protect and guarantee the life and personal integrity of the beneficiaries of the measures; to require the State, among other necessary measures, to provide security services to the homes of Maritza Barrios, Juan Barrios and Orismar Carolina Alzul García, in the form of permanent custody, without prejudice to the parties negotiating more comprehensive provisional measures within the framework of the discussions between the beneficiaries and the State; furthermore, the State should ensure and implement effectively the necessary conditions for the members of the Barrios family who have had to move to other regions of the country to return to their homes, and lastly to require the State to inform the Court of all the necessary and special measures adopted to ensure that threats to the life or the right to personal integrity of the other beneficiaries of these provisional measures do not occur. In addition, the said report should include an assessment of the situation of risk of each beneficiary, as well as the definition of specific, adequate and sufficient measures and means of protection for each beneficiary.

9. Matter of Mery Naranjo et al. (Colombia): *Provisional measures.*

On November 25, 2010, the Court issued an order on provisional measures in this matter (**Annex 56**), in which it decided, *inter alia*, to declare that the provisional measures adopted in favor of Sebastián Naranjo Jiménez have been made obsolete owing to his decease; to require the State to continue adopting the necessary measures to protect the rights to life and to personal integrity of Mery Naranjo Jiménez and her next of kin, namely: Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo and Luisa María Escudero Jiménez; to

require the State to ensure that the measures of protection are not provided by the security officials who, according to the beneficiaries, were allegedly involved in the reported facts, thus they must be designated with the participation of the beneficiaries or their representatives; to require the State to continue adopting any necessary permanent measures of custody to provide security to the residence of Mery Naranjo Jiménez and her family; to require the State to continue adopting the necessary measures to protect the rights to life and personal integrity of María del Socorro Mosquera Londoño, and to request the State to submit a detailed and exhaustive report to the Court indicating the measures adopted to comply with all aspects of the order.

10. Matter of Wong Ho Wing (Peru):²⁷ *Provisional measures.* On November 26 2010, the Court issued an order on provisional measures in this matter (**Annex 57**), in which it decided, *inter alia*, to convene the Inter-American Commission, the Republic of Peru and the legal representative of the beneficiary to a public hearing to be held at the seat of the Court during the ninetieth regular session to be held from February 21 to March 5, 2011, in order to receive the arguments of the parties on the request for an extension to the provisional measures, and to require the State, in accordance with the provisions of the order, to abstain from extraditing Wong Ho Wing until March 31, 2011.

11. Matter of the Interchurch Commission of Justice and Peace (Colombia): *Provisional measures.* On November 22, 2010, the Court issued an order on provisional measures in this matter (**Annex 58**), in which it decided to reject the request for provisional measures presented by the Inter-American Commission on Human Rights in favor of the members of the Interchurch Commission of Justice and Peace.

12. Matter of the Colombian Commission of Jurists (Colombia): *Provisional measures.* On November 25, 2010, the Court issued an order on provisional measures in this matter (**Annex 59**), deciding to reject the request for provisional measures filed by the Inter-American Commission on Human Rights in favor of the members of the Colombian Commission of Jurists.

13. Case of Cabrera García and Montiel Flores (Mexico): *Judgment on preliminary objection, merits, reparations and costs.* On November 26, 2010, the Court delivered judgment on the preliminary objection, the merits, reparations and costs in this case (**Annex 60**), in which it decided to reject the preliminary objection of "fourth instance" filed by Mexico, and declared the State responsible for violating, to the detriment of Teodoro Cabrera García and Rodolfo Montiel Flores, the rights established in Article 7(3), 7(4) and 7(5) (Right to Personal Liberty) in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention on Human Rights; Article 5(1) and 5(2) (Right to Humane Treatment), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention as well as Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; Article 8(3) (Right to a Fair Trial), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, and Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial

²⁷ Judge Diego García Sayán, a Peruvian national, recused himself from hearing this matter, in accordance with Articles 19 of the Court's Statute and 21 of its Rules of Procedure, and this was accepted by the Court. Accordingly, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this matter.

Protection), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the Convention. In addition, the Court declared that it was not incumbent on it to rule on the alleged violation of the rights to personal integrity and to freedom of association recognized in Articles 5(1) and 16 of the American Convention, to the detriment of the next of kin of Teodoro Cabrera García and Rodolfo Montiel Flores and of they themselves, respectively; that the State had failed to comply with the obligation contained in Article 2 (Domestic Legal Effects), in connection with Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, by extending the jurisdiction of the military justice system to crimes that were not strictly related to the military discipline or to rights within the military sphere; the State was not responsible for violating the right to defense recognized in Article 8(2)(d) of the American Convention to the detriment of Mr. Cabrera García and Mr. Montiel Flores, and that the State was not responsible for violating the principle of the presumption of innocence recognized in Article 8(2) of the American Convention to the detriment of Mr. Cabrera García and Mr. Montiel Flores.

Regarding reparations, the Court ordered, *inter alia*, that the State: conduct an effective criminal investigation into the facts of this case, particularly in relation to the alleged acts of torture against Mr. Cabrera García and Mr. Montiel Flores, in order to determine possible criminal responsibilities and apply the punishments and consequences established by law, as applicable. In addition, it must conduct all pertinent disciplinary, administrative or criminal actions if the investigation of the said facts reveals relevant procedural or investigative irregularities; make the publications ordered in the judgment; grant once to each victim the amount established in the judgment for specialized medical and psychological care and also for medicines and other related expenses; adopt the pertinent legislative reforms to make article 57 of the Code of Military Justice compatible with the relevant international standards and with the American Convention on Human Rights, and also adopt the pertinent legislative reforms to provide those adversely affected by the intervention of the military justice system with an effective remedy to contest its jurisdiction; adopt complementary measures to enhance the functioning and usefulness of the records of detainees in Mexico; continue implementing permanent training programs and courses on diligent investigation in cases of cruel, inhuman or degrading treatment or torture, as well as reinforce the institutional capacities of the State by providing training to Army officers on the principles and norms of human rights protection and on the limits to which they are subject, and pay the amounts established in the judgment as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, as applicable.

Judge *ad hoc* Eduardo Ferrer MacGregor Poisot informed the Court of his separate opinion, which accompanies the judgment.

14. Matter of Alvarado Reyes et al. (México): Provisional measures. On November 26, 2010, the Court issued an order on provisional measures in this matter (**Annex 61**), deciding, *inter alia*, to reiterate to the State that it must adopt, immediately, all necessary measures to determine, as soon as possible, the whereabouts of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, as well as to protect their life, and their personal integrity and liberty; to require the State to adopt, immediately, all necessary measures to protect the life and personal integrity of Patricia Reyes Rueda, Alan Alvarado Reyes, Adrián Alvarado Reyes, Michelle Urrutia Alvarado, Manuel Reyes, Obdulia Espinoza

Beltrán, Johana Alvarado Espinoza, José Ángel Alvarado Espinoza, Angélica Alvarado Espinoza, José Ángel Alvarado Favela, Concepción Herrera Hernández, Jaime Alvarado Herrera, Manuel Melquíades Alvarado Herrera, Rosa Olivia Alvarado Herrera, Karina Paola Alvarado Alvarado, Fabián Alvarado Herrera, Feliz García, Mitzi Paola Alvarado Espinoza, Nitza Citlali Alvarado Espinoza, Daisy Alvarado Espinoza, María de Jesús Alvarado Espinoza, Rigoberto Ambriz Marrufo, María de Jesús Espinoza Peinado and Ascensión Alvarado Favela, all next of kin of the initial beneficiaries of these measures; to require the State to adopt, immediately, all necessary measures to protect the life and personal integrity of Emilia González Tercero, representative of the beneficiaries of these measures; to reject the request to expand the provisional measures to Patricia Galarza Gándara, Brenda Andazola, Luz Esthela Castro Rodríguez, Oscar Enríquez, Javier Ávila Aguirre and Francisca Galván, and to require the State to take all pertinent measures to ensure that the measures of protection required in the Order were planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the said measures were provided diligently and effectively and, in general, to keep them informed about any progress in the execution of the measures, and to ask the State to inform the Court every two months of the measures adopted to comply with the provisions of the order.

15. Matter of the Mendoza Prisons (Argentina):²⁸ *Provisional measures.* On November 26, 2010, the Court issued an order on provisional measures in this matter (**Annex 62**), deciding, *inter alia*, to lift the provisional measures ordered by the Inter-American Court on November 22, 2004, and ratified subsequently, to protect the life and integrity of all those deprived of liberty in the Mendoza Provincial Prison and in the Gustavo André Unit, of Lavalle, as well as all those persons within these premises, and to clarify that, in the terms of Article 1(1) of the American Convention, the lifting of the provisional measures does not imply that the State is relieved of its obligations of protection under the Convention.

16. Orders on monitoring compliance with judgments: During this session, the Court issued orders on monitoring compliance with the judgments handed down in the following cases: *Moiwana Community v. Suriname* (**Annex 63**), *Vargas Areco v. Paraguay* (**Annex 64**), *Dismissed Congressional Employees (Aguado Alfaro et al.) v. Peru* (**Annex 53**), *Zambrano Vélez et al. v. Ecuador* (**Annex 65**), *Bayarri v. Argentina* (**Annex 66**), *Fernández Ortega et al. v. Mexico* (**Annex 67**), *Rosendo Cantú et al. v. Mexico* (**Annex 68**) and *Herrera Ulloa v. Costa Rica* (**Annex 49**).

II(b) SPECIAL SESSIONS

A. Forty-first special session of the Court

From April 12 to 16, 2010, the Court held its forty-first special session in Lima, Peru,²⁹ with the following members: Diego García-Sayán (Peru), President; Leonardo

²⁸ Judge Leonardo A. Franco, an Argentine national, did not take part in the deliberation and signature of this order, in the terms of Articles 19 of the Court's Statute and 19 of its Rules of Procedure.

²⁹ The forty-first special session was held with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency for Development.

A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The following judges *ad hoc* also took part in the session: Augusto Fogel Pedrozo, appointed by the State of Paraguay for the case of the Xákmok Kásek Indigenous Community and Alejandro Carlos Espinosa appointed by the State of Mexico for the case of Fernández Ortega *et al.* The Secretary of the Court is Pablo Saavedra Alessandri (Chile), and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

During this session the Court held three public hearings on contentious cases and issued an order on provisional measures. The matters considered by the Court during the session are described below:

1. Case of Ibsen Cárdenas and Ibsen Peña (Bolivia): *Merits and possible reparations and costs.* On April 13, 2010, at a public hearing, the Court received the testimony of one alleged victim, one witness and two expert witnesses proposed by the representatives of the alleged victims, the Inter-American Commission, and the State of Bolivia. The Court also heard the final oral arguments of the parties on the merits and possible reparations and costs in this case.

2. Case of the Xákmok Kásek Indigenous Community (Paraguay): *Merits and possible reparations and costs.* On April 14, 2010, at a public hearing, the Court received the testimony of the alleged victims, witnesses and the expert witness proposed by the representatives of the alleged victims, the Inter-American Commission on Human Rights, and the State of Paraguay. The Court also heard the final oral arguments of the parties on the merits and possible reparations and costs in this case.

3. Case of Fernández Ortega (Mexico): *Preliminary objection and possible merits, reparations and costs.* On April 15, 2010, at a public hearing, the Court received the expert opinions of the three expert witnesses proposed by the representatives of the alleged victims and the Inter-American Commission. The Court also heard the final oral arguments of the parties on the preliminary objection and the possible merits, reparations and costs in this case.

4. Matter of Belfort Istúriz *et al.* (Venezuela): *Provisional measures.* On April 15, 2010, the Court issued an order on provisional measures in this matter (**Annex 69**), in which it decided to reject the request for provisional measures filed by the Inter-American Commission.

5. Academic activities: On Monday, April 12, 2010, lawyers from the Court gave presentations in the Law Schools of the following universities: the Pontificia Universidad Católica del Perú, the Universidad Nacional Mayor de San Marcos, the Universidad de Lima and the Universidad San Martín de Porres. On Friday, April 16, 2010, an international seminar on "*Respect for and Guarantee of Human Rights from the perspective of the inter-American system*" was held at the Lima Lawyers' Professional Association (José León Barandiarán Auditorium), imparted by judges of the Inter-American Court of Human Rights.

6. Official meetings: During the session, the Court held individual working meetings with senior authorities of the Peruvian State: the President of the Republic, the President of the Judiciary and all the justices of the Supreme Court of Justice, the President and justices of the Constitutional Court, the Minister of Justice, the

Ombudsman and National Prosecutor. On Monday, April 12, 2010, the official inauguration of the forty-first special session took place in the main hall of the Palace of Justice, with the participation of the President of the Republic, the President of the Judiciary, and the President of Congress.

B. Forty-second special session of the Court

From November 15 to 19, 2010, the Court held its forty-second special session in Quito, Ecuador,³⁰ with the following members: Diego García-Sayán (Peru), President; Leonardo A. Franco (Argentina), Vice President; Manuel E. Ventura Robles (Costa Rica); Margarette May Macaulay (Jamaica); Rhadys Abreu Blondet (Dominican Republic); Alberto Pérez Pérez (Uruguay) and Eduardo Vio Grossi (Chile). The Secretary of the Court Pablo Saavedra Alessandri (Chile) also attended.

During this session the Court held two public hearings on contentious cases, one public hearing on provisional measures and issued four orders on monitoring compliance with judgment. The matters considered by the Court during the session are described below:

1. Case of Gelman (Uruguay): Merits and possible reparations. On November 15 and 16, 2010, at a public hearing, the Court received the testimony of two of the alleged victims, one witness and two expert witnesses proposed by the representatives of the alleged victims. The Court also heard the final oral arguments of the representatives and the State of Uruguay, as well as the final observations of the Inter-American Commission on Human Rights, on the merits and possible reparations in this case.

2. Case of Abril Alosilla et al. (Peru): Merits and possible reparations. On November 16, 2010, at a public hearing, the Court received the testimony of a witness proposed by the State of Peru. The Court also heard the final oral arguments of the representatives and the State of Peru, together with the final observations the Inter-American Commission, on the merits and possible reparations in this case.

3. Matter of the Mendoza Prisons (Argentina): Provisional measures. On November 17, 2010, at a public hearing, the Court heard the arguments of the Inter-American Commission, the representatives of the beneficiaries of the provisional measures, and the State of Argentina concerning the implementation of the provisional measures ordered in this matter and the need to maintain them in force.

4. Orders on monitoring compliance with judgment: During this special session the Court issued orders on monitoring compliance with judgment in the following cases: *Kimel v. Argentina (Annex 70)*, *Almonacid Arellano v. Chile (Annex 71)*, *Bámaca Velásquez v. Guatemala (Annex 72)* and *Cantoral Benavides v. Peru (Annex 73)*.

5. Academic activities: On November 17, 2010, an international seminar on "*Present and future challenges for the inter-American system for the protection of human rights*" was held in the Eugenio Espejo Convention Center in Quito. It was

³⁰ The forty-second special session was held with funding from the Ministry of Foreign Affairs and Cooperation of Spain and the Spanish International Cooperation Agency for Development.

imparted by judges and lawyers of the Inter-American Court. In addition, on November 19, 2010, an international seminar on "*Respect for and Guarantee of Human Rights from the perspective of the inter-American system*", imparted by judges and lawyers of the Inter-American Court was held in Guayaquil and Cuenca, at the Universidad Católica Santiago de Guayaquil and the Sucre Theater, respectively.

6. Official meetings: On November 15, 2010, an act to commemorate the visit of the Inter-American Court was held in the Eugenio Espejo Convention Center in Quito, with the participation of the Minister of Justice, Human Rights and Worship of Ecuador. In addition during this session the Court held working meetings and individual meetings with senior authorities of the Ecuadorian State, namely: the Attorney General, the President of the National Assembly, the President of the National Court of Justice, the Vice President of the Constitutional Court, the Minister of Justice, Human Rights and Worship, the Prosecutor General, the Ombudsman, and also the President of the Court of Justice of the Andean Community.

III. DEVELOPMENT OF THE COURT'S JURISPRUDENCE IN 2010

This section presents the main jurisprudential novelties developed by the Court during 2010, and some of the criteria that reaffirm the jurisprudence already established by the Court. In this regard, it is worth noting that these jurisprudential advances establish Inter-American standards that are mandatory not only for the parties in each case, but to all State Parties to the American Convention. In fact, the Inter-American Court, interprets the text of the Convention in its capacity as "final interpreter."

The Court's jurisprudence in different cases has been applied by national courts of other states, which has generated the existence of a "jurisprudential dialog" in which the organs of the Inter-American System interact with civil society organizations of the countries in the region, state organs at all levels, international bodies, and, mainly, with other courts at the national level that incorporate Inter-American standards to the domestic body of law of their corresponding countries.

In fact, the highest courts of countries such as Argentina, El Salvador, Bolivia, Colombia, Costa Rica, Peru and the Dominican Republic, among other, have expressly indicated the obligatory nature of the American Convention and of the Court's interpretation thereof.

This generates a dynamic that enriches the Court's jurisprudence and strengthens the effectiveness of the human rights guaranteed by the American Convention in all countries of the hemisphere, given that the international protection of human rights has a direct application in the domestic sphere both by local courts or any state organ responsible for administering justice. It is worth noting that this jurisprudential dialogue also relates to the obligation of domestic judges to verify the compatibility of the laws and acts that must be analyzed with regards to the American Convention and with the Inter-American Court's interpretation thereof. This obligation, called "conventionality control," has been repeatedly indicated by the Court,³¹ as we will see in the following section.

³¹ Cf. *Case of Gomes Lund et al (Guerrilha do Araguaia) v. Brasil*. Preliminary exceptions, merits, reparations and costs. Judgment of November 24, 2010. Serie C No. 219., para. 172

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With the goal of contributing to the dissemination of the Court's jurisprudence, this chapter provides a summary of some of the issues developed by the Court during this year: a) forced disappearance; b) conventionality control; c) amnesty laws; d) access to information (right to freedom of thought and expression); e) military criminal jurisdiction; f) rape; g) rights of immigrants; h) States' obligations in militarized areas; i) exclusion of evidence obtained through coercion; j) right to participate in government; k) responsibility of the State for refraining from providing protection measures; l) creation of a situation of vulnerability due to declarations made by public employees; m) obligation to prosecute and punish all those involved in an extrajudicial killing, and n) rights of indigenous peoples.

1. Forced disappearance

The Court reiterated its historical jurisprudence that acts that constitute a forced disappearance entail multiple offenses, as they violate a number of human rights recognized in the American Convention. In addition, the Court indicated that the crime of forced disappearance is a continued or permanent crime, until the fate of the victim is known or their remains are found.³²

1.1 Forced disappearance and the right to recognition as a person before the law

The Court reiterated its jurisprudence in that a forced disappearance entails a specific violation of the right to recognition as a person before the law. The Court indicated that the forced disappearance of a person "not only seeks one of the most serious forms of removing someone from all spheres of the body of law, but also to deny their existence and leave them in a type of limbo or situation of a lack of legal determination before society, the State, and even the international community."³³

1.2 Forced disappearance and the right to participate in government

The Court established, for the first time, that a forced disappearance of a selective nature may infringe the right to political participation. In fact, in the case analyzed the Court deemed proven a systematic context of selective and targeted forced disappearances, among other, against indigenous leaders, to thwart any type of political representation through terror, thus limiting popular participation that opposes the State's policy.³⁴

and *Case of Cabrera García and Montiel Flores v. México*. Preliminary exceptions, merits, reparations and costs. Judgment of November 26, 2010 Serie C No. 220, para. 225.

³² Cf. *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. Supra note 31, para. 110.

³³ Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Merits, reparations and costs. Judgment of September 1, 2010 Serie C No. 217, para. 102; *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. Supra note 33, para. 122; *Case of Chitay Nech et al v. Guatemala*. Preliminary exceptions, merits, reparations and costs. Judgment of May 25, 2010. Serie C No. 212, para. 98.

³⁴ Cf. *Case of Chitay Nech et al v. Guatemala*. Supra note 35, para. 64 and ss.

1.3 Forced disappearance and the obligation to identify the mortal remains of the victims

The Court defined the State's obligations with regards to the full identification of the remains of victims of forced disappearances. In this regard, it indicated that the act of finding the remains of a specific person "must be accompanied by tests or an analysis to verify that the remains truly correspond to that person. Therefore, in cases of forced disappearances in which there are indications that the alleged victim died, determining whether this occurred and ending the uncertainty implies establishing in the most reliable manner the identity of the individual whose remains were found. In this regard, the corresponding authority must perform the exhumation of these remains so that they are examined by a competent professional [...]."³⁵

2. Conventionality control

The Court defined more accurately its jurisprudence on conventionality control. Specifically, the Court established that the judges and bodies involved in the administration of justice at all levels have the obligation to exercise on their own motion a "conventionality control" between the domestic regulations and the American Convention, within the framework of their corresponding jurisdiction and the corresponding procedural regulations. In addition, it expressed that in this task the judges and bodies related to the administration of justice must take into account not only the treaty but also the Inter-American Court's interpretation of that instrument, as final interpreter of the American Convention.³⁶

3. Amnesty laws

With regards to the existence of Amnesty Laws, the Inter-American Court called to mind the international obligations of States to prosecute, and if applicable, punish those acts that constitute serious human rights violations. It also highlighted numerous precedents by international bodies for the protection of human rights and different high level courts of the State members of the OAS on the incompatibility of amnesty laws or similar provisions to this type of situations with regards to the international obligations of states. The Court reiterated its jurisprudence in that "amnesty provisions are not admissible, nor provisions regarding statutes of limitations, or the establishment of waivers of responsibility that intend to prevent the prosecution and punishment of those responsible for [...] grave human rights violations[,] prohibited due to their infringement of non-revocable rights recognized by International Law on Human Rights."³⁷

4. Access to information (Right to freedom of thought and expression)

The Court also highlighted that Article 13 of the American Convention protects the right for persons to receive information under State control and the State's positive

³⁵ Cf. *Case of Ibsen Cárdenas e Ibsen Peña Vs. Bolivia*. Supra note 35, para 82.

³⁶ Cf. *Case of Cabrera García and Montiel Flores v. México*. Supra note 31, para 225 and *Cf. Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. Supra note 33, para. 176.

³⁷ Cf. *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. Supra note 31, para 174.

duty to provide it, so that the person can have access to this information or receive a well-founded response when, for some reason permitted by the Convention, the State can limit access to that information for that specific case.³⁸ In addition, the Court established that in cases of human rights violations State authorities cannot rely on mechanisms such as State secret, confidential information, or reasons of public interest or national security to not provide the information required by the judicial or administrative authorities in charge of the investigation or pending proceedings. It also determined that to guarantee the right to information it is essential for public authorities to act in good faith and diligently take the steps necessary to ensure that this right is effective, especially when pertaining to clarifying the facts of grave human right violations.³⁹

5. Military criminal jurisdiction

The Court reiterated its constant jurisprudence on the intervention of the military jurisdiction to hear facts that constitute human rights violations. The Court called to mind that in a democratic State of rule of law, the criminal military jurisdiction must have a restricted and exceptional scope, and must seek to protect special legal interests related to the functions of the military. Therefore, the Court has determined that in the military sphere only active soldiers shall be judged for crimes or faults that due to their nature contravene legal rights of the military order, and that "the military jurisdiction may not, under any circumstance, participate in situations regarding infringement of the human rights of civilians."⁴⁰

In addition, the Court clarified that compliance with the standards mentioned in the previous paragraph is done through the investigation of all human right infringements within the framework of the ordinary criminal jurisdiction, therefore it cannot limit its scope of application to specific violations such as torture, forced disappearances, or rape.⁴¹

6. Rape

6.1 Evidence

The Court determined that rape is a particular type of aggression that is generally characterized by the absence of other individuals apart from the victim and the attacker(s). Due to the nature of this type of violence, the existence of graphic or

³⁸ Cf. *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. *Supra note 31, para 198*.

³⁹ Cf. *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brasil*. *Supra note 33, para 202*

⁴⁰ Cf. *Case of Rosendo Cantú et al v. México. Preliminary exceptions, merits, reparations and costs, judgment of august 31, 2010*. Serie C No. 216, para. 160; *Case of Fernández Ortega et al v. México. Preliminary exceptions, merits, reparations and costs, judgment of august 30, 2010*. Serie C No. 215, para 62.

⁴¹ Cf. *Case of Cabrera García and Montiel Flores v. Mexico*, *supra note 31, para 206 and 233*.

documentary evidence cannot be expected, therefore the victim's statement constitutes fundamental evidence of the fact.⁴²

6.2 Rape as a form of torture

The Court deemed that rape committed by agents of the state may constitute torture even if it consists of a single fact or occurs outside of state facilities, such as the victim's home. This is because the objective and subjective elements that qualify an act as torture do not refer to the accumulation of facts or to the place where it occurs, rather, they refer to the intent, severity of the suffering, and aim of the act, requirements that were met in the case.⁴³

6.3 Rape and the right to the protection of honor and dignity

The Court determined that rape violates values and essential aspects of the private lives of victims, entails an interference with the person's sexual life and annuls the right to freely decide with whom to have sexual relations, fully losing control over the most personal and intimate decisions, and over basic bodily functions. Based on the foregoing it declared the violation of article 11 of the Convention.⁴⁴

6.4 Special protection measures for minors who are victims of rape

The Court determined that the obligation to protect the best interest of girls and boys during any judicial proceeding in which they are involved implies, *inter alia*: i) ensuring, especially in cases where girls or boys have been victims of crimes such as sexual abuse or other types of mistreatment, that their right to be heard is exercised guaranteeing full protection, that the personnel is trained to help them and that the interview rooms represent a safe environment, not intimidating, hostile, insensitive, or inadequate; ii) furnish the information and implement the adequate proceedings adapting them to the specific needs, guaranteeing that they have qualified and other types assistance at all times, according to their needs, and iii) make an effort so that the girls or boys are not interviewed more times than are necessary so as to avoid, to the extent possible, revictimization or traumatic impact on the child.⁴⁵

7. Rights of immigrants

7.1 Incompatibility of punitive sanctions for immigration violations

The Court adjudged for the first time an adversarial case on the obligations of States with regards to immigration policies, specifically on the incompatibility of the establishment sanctions of a punitive character in relation to non-compliance with

⁴² Cf. Case of Rosendo Cantú et al v. Mexico, supra note 40, para 89; case of Fernández Ortega et al v. Mexico, supra note 40, para 100.

⁴³ Cf. Case of Rosendo Cantú et al v. México. Supra note 40, para. 118; Caso Fernández Ortega et al v. México. Supra note 40, párr. 128.

⁴⁴ Cf. Case of Rosendo Cantú et al v. México. Supra note 40, para. 119; Caso Fernández Ortega et al v. México. Supra note 40, párr. 129.

⁴⁵ Cf. Case of Rosendo Cantú et al v. México. Supra note 40, para. 201.

immigration laws with the American Convention. The Court considered that although States have the authority to control and regulate the entrance and permanence of foreigners in their territory, imposing punitive measures on immigrants who re-enter the country in an irregular manner after a prior deportation order does not constitute a legitimate end in conformity with the Convention.⁴⁶ The Court added that the detention of individuals for non-compliance with immigration laws must never be with punitive goals; measures for the deprivation of liberty should only be used when necessary, and in the specific case at hand to ensure the person's appearance at the immigration proceeding or guarantee the application of a deportation order, and only during the shortest amount of time possible.⁴⁷ For this purpose it is essential for States to have a catalog of alternative measures. Consequently, those immigration policies that focus on the compulsory detention of irregular immigrants, without having the competent authorities verify each specific case, or through a customized evaluation of the possibility of using less restrictive measures to achieve those goals are arbitrary.⁴⁸

7.2 Vulnerability of immigrants and obligations of the States

The Inter-American Court called to mind several concepts reflected upon in Advisory Opinion No. 18/03, in that with regards to the exercise of their authority to establish immigration policies, States may establish mechanisms to control entries and exits from their territory for individuals who are not nationals, if and when these policies are compatible with the standards on the protection of human rights established in the American Convention. In this regard, it indicated that the general obligation of States to respect and guarantee rights results in special duties, determinable based on the specific needs for protection of the legal person. In this regard, it referred to the situation of vulnerability faced by undocumented immigrants or those with an irregular status, as they are "the most exposed to potential or real violations of their rights" and, due to their situation, to suffer a high level of lack of protection of their rights and differences in their access to the public resources managed by the State with regards to nationals or residents.

7.3 Impunity and violations committed against immigrants

The Court also observed that the human rights violations committed against immigrants often remain in impunity due to, *inter alia*, the existence of cultural factors that justify these facts, the lack of access to power structures in a particular society, and normative and factual obstacles that turn access to justice illusory.⁴⁹

7.4 Conditions for arrest in the event that it is necessary

On the other hand, the Court indicated that the situation of vulnerability of immigrant persons usually increases when solely due to their immigration status they are deprived of liberty in correctional facilities along with persons accused and/or punished for crimes, as occurred in the case under analysis. This situation makes immigrants more prone to suffering abusive treatment, as it entails a *de facto* individual condition of lack of protection with regards to the rest of the prisoners.

⁴⁶ Cf. *Case of Vélez Loor v. Panamá*. Preliminary exceptions, merits, reparations and costs. Judgment of November 23, 2010 Serie C No. 218, párr. 168.

⁴⁷ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46, para. 169.

⁴⁸ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 171.

⁴⁹ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 98.

Therefore, if necessary and proportionate in the concrete case, immigrants shall be detained in establishments specifically for that purpose that agree with their legal situation, and not in common prisons, whose goal is not compatible with the nature of a potential detention of an individual due to their immigration status.⁵⁰

Besides, the Court pointed out the lack of potable water is a important aspect in the detention conditions for which the States should provide measures to verify that the private of liberty have enough and healthy water to satisfy the daily needs among then, potable water when they need it and the personal hygiene. The Court considered that the absense of minimum conditions guarantee the water suply inside the prison it is a misconduct by the State to their duties of guarantee to people under custody, everytime that their own circunstancy of the lock avoid the essentials basic need for the development to a dignify live such as enough potable supply water. to their duties of guarantee to people under custody, everytime that their own circunstancy of the lock avoid the essentials basic need for the development to a dignify live such as enough potable supply water. to their duties of guarantee to people under custody, everytime that their own circunstancy of the lock avoid the essentials basic need for the development to a dignify live such as enough potable supply water.⁵¹

7.5 Constitutional rights and the due process in migration matters processes.

According to the constitutional rights of article 7(5) of the Convention, the Court highlighted that it must be satisfied always if there is a retention or detention of a person due to migration matters. Therefore, the domestic law must ensure that the authorized official by the law to practice jurisdictional functions meets the impartiality and independent characteristics, and it is essential that have the power to set free the person if the detention is illegal or arbitrary⁵².

The court established that the due legal process is right that must be guaranteed to every person, independently of the migratory status to have the possibility of assert their rights and defend their interests in an effective manner and with equal procedural conditions⁵³. Added that the minimum guarantees establish in article 8(2) of the Convention must be also given to the people waiting for administrative migratory procedures, which are apply *mutatis mutandis* in its corresponding. The court emphasized the right to consular assistance and legal aid as necessary measures that the States should adopt to guarantee an effective and equal access to justice of the people who is on a vulnerable aggravated situation such the migrant in an irregular situation subjected to measure of deprivation of liberty⁵⁴.

7.6 Effective remedy in migration processes

Regarding effective remedy to question the legality of the detention, the Court determined that when the detention is ordered by an administrative authority, the review on behalf of a judge or court is a essential requirement to guarantee the

⁵⁰ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 207.

⁵¹ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 paras. 215 y 216.

⁵² Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 108

⁵³ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 143

⁵⁴ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 254

correct control and scrutiny of the administration acts that affect basic rights through its direct judicial control⁵⁵.

7.7 Right to defense in migratory processes

In term of the migratory procedures, either administrative nor judicial in which it can be adopted a decision involving the deportation, expulsion or imprisonment, the Court noted that the provision of a free legal public service in favor of these is necessary to prevent infringement of the right to due process⁵⁶.

7.8 Right to consular assistance

About the right of information and effective access to consular assistance, the Court clarifies that since the view of rights of an imprisonment, there are three essential components: 1) the right to be notified of their rights under Vienna Convention; 2) the right of effective access to communication with consular official; 3) the right of assistance to the same. To prevent arbitrary detentions, the Court repeat the importance that the person in detention be notified of their right of establishes contact with a third person such as the consular official to inform that it is under custody of the State⁵⁷.

Regarding the effective access to consular communication, the detainee should be allowing to: 1) free expression within its consular officials and 2) visits from them. Concerning assistance of the same, the visits of the consular officials should be focused to provide "protection of interest" of the national detainee, particularly those associated with "its defense before Court"⁵⁸.

8. Obligations of the States in military areas

The court considered that the high military presence accompanied by the Armed Forces in activities of public security may imply the introduction of a risk for human rights⁵⁹. Specifically, the Court establish that it is true that the States have the right to guarantee its security and to keep the public order, its power is unlimited because they have the duty, at every moment, to apply the procedures according the rights and respectful of the basic rights, to every individual who is under its jurisdiction. Therefore the Court emphasized in the extreme care that the States must observe when using the Armed Forces as a control element of the social objection, internal disturbances, internal violence and exceptional situations and common criminality⁶⁰. Thereby, the Court conclude that the States should limited to the top the used to Armed Forces for the control of common criminality or internal violence because the training they received is directed to defeat a legitimate objective and not to the protection and control of civilians, training that the police own. Besides, the demarcation of the military and police functions must guide the strict compliance with the obligation to prevent and protect the rights in risk in charge of the domestic authorities⁶¹.

⁵⁵ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 126

⁵⁶ Cf. *Case of Vélez Loor v. Panamá*, *Supra* note 46 para. 146.

⁵⁷ Cf. *Case of Vélez Loor V. Panamá*. *Supra* note 46, para 153 and 154.

⁵⁸ Cf. *Case of Vélez Loor V. Panamá*. *Supra* note 46, para 158.

⁵⁹ Cf. *Case of Cabrera García y Montiel Flores V. Mexico*. *Supra* note 31 para 86.

⁶⁰ Cf. *Case of Cabrera García y Montiel Flores V. Mexico*. *Supra* note 31 para 87.

⁶¹ Cf. *Case of Cabrera García y Montiel Flores V. Mexico*. *Supra* note 31 para 88.

Finally, the Court emphasized the possibility to grant to the Armed Forces functions directed to the restriction of personal freedom of civilian, besides to attend to the requirements of stricter proportionality in the restriction of a right, must answered, at the same time, to the strict criteria of exceptionality and due diligence in the safeguard of the conventional guarantees, given that the regime of Armed Forces, which is difficult to remove its members, is not consistent with the functions of the civil authorities⁶².

9. Exclusion of evidence obtained through coercion

The Court said that some criteria that must take into account to apply the rule of exclusion of the evidence obtained through coercion, torture, cruel, inhuman or degrading. In first place, the Court determined that the exclusion rule holds an absolute and derogable character because the same is intrinsic to the prohibition of torture or cruelty⁶³.

In that regard, the Court stressed that the exclusion rule does not apply only to cases in which torture or cruelty has committed but under article 8(3) of the exclusion rule must apply to any evidence that has been obtained through coercion⁶⁴. Indeed, the Court indicated that when tested any kind of coercion capable of undermine the spontaneous expression of the will of the person, that implied the necessary obligation of exclude from the judicial process the evidence that has been collected in a direct way or that it is derived from the information obtained through coercion⁶⁵.

Finally, the Court pointed out that in the case of reasonable existent evidence that a person has been torture or treated in a cruel and inhuman manner, the fact that ratify the confession before an authority different to the one that performed the act, does not involve automatically that said confession is valid. Above because the after confession may be consequence of the abuse suffer by the person and specifically of the fear and anguish that remains after this kind of facts⁶⁶.

10. Political rights and guarantees for minority or opposition parties

The Court considered that the opposition voices are essential to a democratic society, without it will be no possible to accomplish the success of agreements that address the different views that remain in a society. The Court estimated that the effective participation of people, groups, organizations and political parties of the opposition in a democratic society must be guarantee by the States through appropriate policies and practices that enable the real and effective access to different deliberative spaces in equal term and also by the adoption of necessary measures to assurance is full exercise, addressing the situation of vulnerability in which certain areas or social groups are⁶⁷.

⁶² Cf. Case of Cabrera García y Montiel Flores V. Mexico. Supra note 31 para 89.

⁶³ Cf. Case of Cabrera García y Montiel Flores V. Mexico. Supra note 31 para 165.

⁶⁴ Cf. Case of Cabrera García y Montiel Flores V. Mexico. Supra note 31 para 166.

⁶⁵ Cf. Case of Cabrera García y Montiel Flores V. Mexico. Supra note 31 para 166 and 167.

⁶⁶ Cf. Case of Cabrera García y Montiel Flores V. Mexico. Supra note 31 para 173 and 174.

⁶⁷ Cf. Case of Manuel Cepeda Vargas v. Colombia, Preliminary exceptions, merits, reparations and costs, judgment of May 26, 2010. Serie C No 213, para 173.

11. Creation of a vulnerability situation as a consequence of statements on behalf of public officials

The court establishes that, in some occasions, the statement made by public officials about a person can cause a raise in the risk of such person. In fact, the Court held in the analyzed case that the political violence against the members and the leaders of certain political parties was, in part, due to the statements of featured public officials issued that linked those parties with insurgent groups. The Court considered that the members of such political parties were put in a higher vulnerability and those statements raised the level of risk in which they were already, as they were considered "domestic enemy" in the framework of the "national security" doctrine.

The Court said that the manifestations of those state agents may have contributed to emphasized and exacerbate the hostility situations, intolerance and ill will on behalf of the public officials and other areas of the population to the linked persons with the chased political parties, therefore, the victim⁶⁸.

12. Responsibility of the State due the abstinence to adopt protection measures

The Court considered that to a situation of risk as the systematic chase of the members of certain political parties, the lack of adoption of measures appropriate to protect the people in risk is an assumption of responsibility of the State. Due to the state authorities abstained unjustifiably to protect the victim that was in a extremely risky situation, the Court established that the extrajudicial execution was favored, or at least allowed, by the set of some institutions and public authorities that abstained of adopt the necessary measures to protect life, among it highlighted the lack of proper investigation of the threats in the frame of an alleged plan of extermination of political leaders⁶⁹.

13. Obligation to investigate and punish every person involved in the extrajudicial execution.

The court observed that the extrajudicial execution of the victim was perpetrated for several individuals, for which is possible to warn that in the planning and execution of the homicide some members or the army and one or a few of the paramilitary were involved. The Court establishes that if the division of duties makes more difficult the clarification of the links between the perpetrates, in complex cases the obligation to investigated leads to the task of direct the efforts of the state to fathom the structure that allowed those violations, causes, beneficiaries and its consequences and not only to discovered, judge and punished the immediate perpetrates. The protection of human rights must be one of the central goals determining the actions of the State in any kind of investigation.⁷⁰

⁶⁸ Cf. Case of Manuel Cepeda Vargas V. Colombia, supra note 67, paras 85 – 87.

⁶⁹ Cf. Case of Manuel Cepeda Vargas V. Colombia, supra note 67, para100 – 102.

⁷⁰ Cf. Case of Manuel Cepeda Vargas V. Colombia, supra note 67, para117 – 119.

14. Rights of Indigenous population

14.1 Right of the indigenous children to cope in its own culture

The Court established that the States, besides the obligations that should guarantee to every person under its jurisdiction, must meet the promotion and protection the rights of indigenous children to live according its own culture, its own religion and its own language.⁷¹ Moreover, it acknowledge the special meaning of family coexistence within the indigenous family, which is not limited to the nuclear family but includes different generations and even the community of which is part of.⁷² Substantially, the Court determined that as a consequence of the harassments, chasings and attacks to the house of the victim and his disappearance, the next of kin have to escape of their communities which provoke a rupture in its cultural identity, affecting their link with family, language and ancestral past⁷³.

The Court added that the family disintegration affect the condition of those under age at the moment of the violations.⁷⁴

14.2 Right to indigenous communal property

The Court emphasized the importance of indigenous communal property and highlighted the "close link of the indigenous people with their traditional lands and the natural resources bound to their culture as well as the incorporeal elements that flow from them, should safeguard by article 21 of the American Convention⁷⁵.

14.3 Right to a dignified life

The Court found about the duty of the State to give the basic services in matter or access and quality of water, food, health services and education to protect the right to a dignified life in a specific group of people in special vulnerability conditions (special risk, real and immediate). However the above, the Court point out that a State "cannot be responsible for any situation of risk to the right of life".⁷⁶

14.4 Marginalization

The Court established that it is evident the discrimination of *facto* against a specific group of people, when they are marginalized in the enjoyment of their rights without adopting the positive measures necessary to revert such exclusion. Because of that the State should adopt enough and effective measures to guarantee without discrimination such rights. In the analyzed case it established that the situation of extreme and especial vulnerability of the members of the indigenous community happen, *inter alia*, to the lack of appropriate and effective resources that protect the rights of indigenous, the weak presence of state institutions required to give services

⁷¹ Cf. Case of Chitay Nech et al V. Guatemala supra note 33, para 167.

⁷² Cf. Case of Chitay Nech et al V. Guatemala supra note 33, para 159.

⁷³ Cf. Case of Chitay Nech et al V. Guatemala supra note 33, para 146.

⁷⁴ Cf. Case of Chitay Nech et al V. Guatemala supra note 33, para 161.

⁷⁵ Cf. Case of Xákmok Kásek V. Paraguay, Merits, reparations and costs, judgment of August 24, 2010. Serie C No 214, para 85.

⁷⁶ Cf. Case of Xákmok Kásek V. Paraguay, supra note 75, para 188.

and assets to such members, especially, food, water, health and education, and to the prevalence of a property view that provide a higher protection to the private owners over the indigenous territorial claims, unknown, with it, its cultural identity and threatened its physical subsistence⁷⁷.

14.5 Forced disappearance of a indigenous leader

The Court maintained that the harassment and disappearance of a social indigenous leader chosen as a councilman not only curtailed the army the political right of the victim in the period of the position but also prevented to meet the leadership development process.

Therefore, the Court pointed out that the community was deprived of the representation of one of its leaders in different areas of the social structure and mostly in the access of the full exercise of the participation of groups in situations of inequality results to be a necessary requirement to the realization of basic aspects such as inclusion, self-determination and development of indigenous communities inside a plural and democratize State⁷⁸.

IV. SUBMISSION OF NEW CONTENTIOUS CASES

Sixteen new contentious cases were submitted to the Court during 2010:

1. Case of *Abrill Alosilla et al. v. Peru*

On January 16, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Peru concerning the case of Abill Alosilla et al. The application relates to the alleged violation of the right to judicial protection to the detriment of 233 members of the Labor Union of Officials, Professionals and Technical Personnel of the Lima Water and Drainage Services Company, because the State had allegedly failed to provide an effective remedy to contest the retroactive application of decrees that, in 1991 and 1992, eliminated the salary regime that governed them, even though the Constitution in force at the time guaranteed the non-retroactivity of laws, with the exception of the most favorable law in criminal cases.

In the application, the Commission asked the Court to declare the State responsible for violating the right embodied in Article 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

⁷⁷ Cf. Case of *Xákmok Kásek V. Paraguay*, supra note 75, para 271.

⁷⁸ Cf. Case of *Chitay Nech V. Guatemala*, supra note 33, para 113.

2. Case of Gelman v. Uruguay

On January 21, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Uruguay concerning the Gelman case. The application relates to the alleged forced disappearance of María Claudia García Iruretagoyena de Gelman by Uruguayan State agents since towards the end of 1976, with no information to date on her whereabouts and the circumstances in which her disappearance occurred; the alleged suppression of the identity and nationality of María Macarena Gelman García Iruretagoyena, daughter of María Claudia García de Gelman and Marcelo Gelman; and the alleged denial of justice, impunity and, in general, the suffering caused to Juan Gelman, his family, María Macarena Gelman García Iruretagoyena and the next of kin of María Claudia García de Gelman, as a result of the alleged failure to investigate the facts, and prosecute and punish those responsible owing to Law No. 15,848, or the Amnesty Law, promulgated in 1986.

In the plaintiff's brief, the Commission asks the Court to declare that the State is responsible for the violation of the rights established in article 8.1 (Right to a Fair Trial) and article 25 (Right to Judicial Protection) of the American Convention, in relation to article 1.1 (Obligation to Respect Rights) and article 2 (Domestic Legal Effects) of the same treaty, articles I.b. III, IV and V of the Inter-American Convention on Forced Disappearance of Persons, and Articles 1, 6, 8 and 11 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Juan Gelman, María Claudia García de Gelman, María Macarena Gelman and their next of kin; Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) and 1(1) (Obligation to Respect Rights) of the American Convention, Articles I(b), III, IV and V of the said Inter-American Convention on Forced Disappearance of Persons and Articles 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of María Claudia García de Gelman; Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof to the detriment of Juan Gelman, María Macarena Gelman and their next of kin; Articles 3 (Right to Juridical Personality), 11 (Right to Privacy), 18 (Right to a Name), 19 (Rights of the Child) and 20 (Right to Nationality) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of María Macarena Gelman, and Articles 1(1) (Obligation to Respect Rights) and 17 (Rights of the Family) of the American Convention and Article XII of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Juan Gelman, María Macarena Gelman and their next of kin.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

3. Case of Vera Vera et al. v. Ecuador

On February 24, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Ecuador concerning the case of Vera Vera *et al.* The application relates to the alleged lack of adequate medical care, physical and mental suffering and subsequent death of Pedro Miguel Vera Vera in State custody. Pedro Miguel Vera Vera was detained on April 12,

1993, by the Police, wounded by a firearm of uncertain origin. Mr. Vera Vera was transferred to a public hospital, in the State's custody, from where he was released the following day and transferred to a detention center. He remained at this center for four days without any medical care, despite the wound and the fact that the bullet remained lodged in his body. On April 16, 1993, a judicial order was issued to transfer the victim to a hospital so that surgery could be performed. The victim was transferred the following day, but he had to wait until April 22, 1993, for the operation and died only hours later. It appears that the facts have not yet been clarified, and those responsible have not been identified and punished.

In the application, the Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Pedro Miguel Vera Vera. In addition, the Commission asked that the State of Ecuador be declared responsible for violating Article 8(1) (Right to a Fair Trial) and 25(1) Right to Judicial Protection) of the American Convention, in relation to the general obligation of respect and guarantee embodied in Article 1(1) thereof, to the detriment of Francisca Mercedes Vera Valdez, Agustín Abraham Vera Vera, Patricio Rubén Vargas Vera, Johanna Vargas Vera and Francisco Rubén Vargas Balcázar, next of kin of Pedro Miguel Vera Vera.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

4. Case of Alicia Barbani Duarte, María del Huerto Breccia *et al.* (Depositors of the Banco de Montevideo) v. Uruguay

On March 16, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Uruguay concerning the case of Alicia Barbani Duarte, María del Huerto Breccia *et al.* (Depositors with the Banco de Montevideo). The application relates to the alleged international responsibility of the State arising from the failure to provide a group of alleged depositors with the Banco de Montevideo with an impartial hearing for their claims before the Advisory Commission created by Law 17,613, Law on the Reform of the Financial System, or before the Court of Administrative Law. The complaints related to the transfer of their funds from the Banco de Montevideo in Uruguay to the Trade and Commerce Bank in the Cayman Islands without consulting them. In addition, the application relates to the alleged failure to provide the alleged victims with a simple and prompt remedy to examine all the factual and legal questions related to the dispute.

In the application, the Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

5. Case of Torres *et al.* v. Argentina

On April 18, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Argentina concerning the case of Iván Eladio Torres *et al.* The application relates to the alleged arbitrary detention, torture and forced disappearance of Iván Eladio Torres that occurred as of October 3, 2003, in Comodoro Rivadavia, Chubut Province, and the alleged lack of due diligence in the investigation of the facts, as well as the alleged denial of justice to the detriment of the victim's next of kin.

In the application, the Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Iván Eladio Torres; Articles I, III and XI of the Inter-American Convention on Forced Disappearance, and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Iván Eladio Torres; Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of Iván Eladio Torres, and Article 2 (Domestic Legal Effects) of the American Convention, in relation to Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial), 25 (Right to Judicial Protection) and 1(1) (Obligation to Respect Rights) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

6. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador

On April 26, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission filed a case against the State of Ecuador concerning the Kichwa Indigenous People of Sarayaku. The facts of the case relate to the State's alleged acts and omissions that adversely affected the Kichwa People of Sarayaku and its members, which have allowed a private petroleum company to carry out activities in the ancestral territory of the Kichwa People of Sarayaku without previously consulting them, creating an alleged situation of risk for the population. This situation has meant that the indigenous people cannot seek their means of subsistence in their territory and has restricted their freedom of movement within it. The case also refers to the alleged denial of the right to judicial protection and to due process of the Kichwa People of Sarayaku.

The Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 21 (Right to Property) of the American Convention, in relation to Articles 13 (Freedom of Thought and Expression), 23 (Right to Participate in Government) and 1(1) (Obligation to Respect Rights) of this instrument, to the detriment of Sarayaku Indigenous People and its members; Articles 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Sarayaku Indigenous People and its members; Article 22 (Freedom of Movement and Residence) of the American Convention, in relation to Article 1(1)

(Obligation to Respect Rights) thereof, to the detriment of the members of the Sarayaku Indigenous People; Article 5 (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of twenty members of the Kichwa People of Sarayaku, and Article 2 (Domestic Legal Effects) of the American Convention.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

7. Case of Narciso González Medina *et al.* v. Dominican Republic

On May 2, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of the Dominican Republic concerning the case of Narciso González Medina *et al.* The application relates to the alleged forced disappearance of the university professor, columnist and opposition leader, Narciso González Medina, presumably owing to his criticism of the military and also of the President of the Republic at the time, Joaquín Balaguer, as well as his participation in the public denunciation of electoral fraud in the context of the 1994 presidential election. Narciso González Medina was allegedly deprived of his liberty by State officials on May 26, 1994. During the following days he was allegedly seen alive, but in a very poor condition, in several security units in the custody of State officials. At the present time, his fate or whereabouts are unknown and supposedly there has been no serious, diligent and effective investigation to clarify the facts, identify those responsible and impose the corresponding punishment. Sixteen years have elapsed and Narciso González Medina is still disappeared while the facts allegedly remain in impunity.

In the application, the Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 25 (Right to Judicial Protection) and 13 (Freedom of Thought and Expression) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

8. Case of Jorge Fernando Grande v. Argentina

On May 4, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Argentina concerning the case of Jorge Fernando Grande. The application relates to the alleged subjection of Jorge Fernando Grande to criminal proceedings that were allegedly tainted by irregularities and undue delay, and supposedly based on evidence that was subsequently declared invalid, and also for failing to provide the alleged victim with an adequate remedy to repair the damage caused during the said criminal proceedings.

In the application, the Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Right to

Judicial Protection) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

9. Case of Gregoria Herminia Contreras *et al.* v. El Salvador

On June 28, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of El Salvador concerning the case of Gregoria Herminia Contreras *et al.* The application relates to the alleged forced disappearance of Gregoria Herminia's children, Serapio Cristian and Julia Inés Contreras, Ana Julia and Carmelina Mejía Ramírez and José Rubén Rivera between 1981 and 1983 carried out by members of different military units that were conducting counter-insurgency operations in the context of the armed conflict being waged in that country at the time. To date, there is no information on their fate and whereabouts, except for that of Gregoria Herminia Contreras, which was established in 2006. Currently, there is an ongoing process to reconstruct her identify and relationship with her biological family. The circumstances surrounding the six alleged disappearances have not yet been clarified, those responsible have not been identified and punished and, in brief, although almost 30 years have elapsed, the facts allegedly remain in impunity.

In the application, the Commission asked the Court to declare the State responsible for violating the rights recognized in Articles 3 (Right to Juridical Personality), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 17 (Rights of the Family), 18 (Right to a Name) and 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Gregoria Herminia Contreras; Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty), 17 (Rights of the Family) and 19 (Rights of the Child) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that instrument, to the detriment of Serapio Cristian and Julia Inés Contreras, Ana Julia and Carmelina Mejía Ramírez and José Rubén Rivera, and Articles 5 (Right to Humane Treatment), 17 (Rights of the Family), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) to the detriment of several individuals named in the application.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

10. Case of the Barrios Family v. Venezuela

On July 26, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission filed a case against the State of Venezuela concerning the Barrios Family. The facts of the case relate to the alleged persecution of the Barrios family by the Aragua Police, which allegedly led to the death of five of its members, unlawful and arbitrary searches and detentions, threats to life and personal integrity, and also displacement from their places of residence. Many of the members of the family have suffered these events since they were children. All the alleged violations remain in impunity to date.

The Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 11 (Right to Privacy), 19 (Rights of the Child), 21 (Right to Property), 22 (Freedom of Movement and Residence) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of specific members of the Barrios family.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

11. Case of Karen Atala and daughters v. Chile

On September 17, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission lodged an application against the State of Chile concerning the case of Karen Atala and Daughters. The application relates to the alleged discriminatory treatment and the alleged arbitrary interference in the private and family life of Karen Atala owing to her sexual orientation in the judicial proceedings that resulted in the care and custody of her daughters being taken from her. The case is also related to the alleged failure to observe the best interest of the girls, M., V. and R., whose custody and care were allegedly determined without respecting their rights and based on alleged discriminatory prejudices, incompatible with Chile's human rights obligations.

In the application, the Commission asked the Court to declare that the State was responsible for violating the rights established in Articles 11 (Right to Privacy), 17 (Rights of the Family), 19 (Rights of the Child), 24 (Right to Equal Protection), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention in relation to Article 1(1) (Obligation to Respect Rights) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated in the application, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

12. Case of Néstor José and Luis Uzcátegui et al. v. Venezuela

On October 22, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission filed a case against the State of Venezuela, concerning Néstor José and Luis Uzcátegui *et al.* The facts of the case relate to the death of Néstor Uzcátegui, who was allegedly executed by the police of Falcón State, and the alleged persecution of Luis Uzcátegui by the Police of this state in response to his search to obtain justice for the death of his brother, Néstor Uzcátegui. As part of the said persecution, members of Néstor José Uzcátegui's family have allegedly been detained and subjected to illegal and arbitrary searches. Furthermore, Luis Uzcátegui has allegedly suffered threats against his life and personal integrity, has had to face a complaint of slander and had to move from his home. The human rights violations perpetrated against members of the Uzcátegui family allegedly remain in impunity.

The Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 4 (Right to Life), 8(1) (Right to a Fair Trial) and 25 (Right

to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Néstor José Uzcátegui; Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 11 (Right to Privacy), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Luís Enrique Uzcátegui; Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 19 (Rights of the Child) thereof, to the detriment of Carlos Eduardo Uzcátegui; Articles 13 (Freedom of Thought and Expression) and 9 (Freedom from *Ex Post Facto* Laws) of the American Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Luís Enrique Uzcátegui, and Article 5 (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of this instrument, to the detriment of the next of kin of Néstor José Uzcátegui.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

13. Case of Raúl José Díaz Peña v. Venezuela

On November 12, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission submitted the case of Raúl José Díaz Peña against the State of Venezuela by the presentation of Report No. 84/10 under Article 50 of the Convention. The case relates to the alleged illegal and arbitrary detention of Raúl José Díaz Peña and his alleged subjection to a pre-trial detention regime that supposedly went beyond the limits established by criminal law, based on the presumption of a risk that he might abscond. During the time he remained in pre-trial detention, supposedly the alleged victim's situation was not subject to effective judicial review. Furthermore, the proceedings against him presumably included a series of irregularities, which, according to the allegations, resulted in the criminal proceedings lasting approximately five years and two months from the time of his detention until he was sentenced and convicted. While in the State's custody, he was allegedly subjected to detention conditions that adversely affected his health, and did not receive the medical attention that he supposedly required promptly.

The Commission asked the Court to declare the State responsible for violating the rights recognized in Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to a Judicial Protection) of the American Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Raúl José Díaz Peña.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

14. Case of Milagros Fornerón and Leonardo Aníbal Fornerón v. Argentina

On November 29, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission filed a case against the State of Argentina concerning Milagros Fornerón and Leonardo Aníbal Fornerón. The facts of the case

relate to the alleged violation of the right to protection of the family of Mr. Fornerón and his biological daughter, Milagros Fornerón, who was allegedly handed over to a foster home by her mother without the consent of her father, who does not have access to the child. It appears that the State did not order or implement a visiting system, despite numerous requests by Mr. Fornerón over the past 10 years. The Inter-American Commission considered that, in this case, the passage of time was especially relevant in determining the legal situation of Milagros Fornerón and of her father because, on December 23, 2005, the judicial authorities decided that the child could be adopted by the couple who had been looking after her based on the relationship formed by the passage of time. According to the Inter-American Commission, the unjustified delay in the procedures was the reason that the father's rights were disregarded.

The Commission asked the Court to declare the State responsible for allegedly violating the rights of Leonardo Fornerón and Milagros Fornerón recognized in Articles 8(1) (Right to a Fair Trial), 17 (Right of the Family) and 25(1) (Right to a Judicial Protection) of the American Convention, in relation to Articles 19 (Rights of the Child) and 1(1) (Obligation to Respect Rights) thereof, as well as for failing to comply with Article 2 (Domestic Legal Effects) of the Convention in relation to Articles 1(1) (Obligation to Respect Rights) and 19 (Rights of the Child) thereof.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation indicated, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

15. Río Negro Massacre v. Guatemala

On November 30, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission filed a case against the State of Guatemala concerning the Río Negro Massacre. The facts of the case relate to the alleged massacres of the community of Río Negro supposedly planned by agents of the State of Guatemala in order to exterminate the community, which allegedly constituted genocide. According to the Commission, these massacres were executed under a scorched-earth policy headed by the Guatemalan State against the Mayan people, branded as the "internal enemy," in a context of discrimination and racism. In addition, the Commission indicated that the State has not investigated the facts surrounding the massacres of the members of the community effectively and that the courts have not acted diligently to institute the criminal proceedings to clarify all the facts about the massacres and to punish all the masterminds and perpetrators.

The Commission asked the Court to declare the State responsible for violating the rights embodied in Articles 4, 5 and 7 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the members of the Río Negro community who were extrajudicially executed; Article 19 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the children of the Río Negro community who were extrajudicially executed; Articles 3, 4, 5 and 7 of the American Convention in relation to Article 1(1) thereof and also in relation to Article I of the Inter-American Convention on the Forced Disappearance of Persons, to the detriment of Ramona Lajuj and Manuel Chen Sánchez, and also, in relation to Article 19 of the American Convention, to the detriment of Manuel Chen Sánchez; Articles 5 and 11 of the American Convention, in relation to Article 1(1) thereof, to the detriment of J.O.S., V.C., M.T. and María Eustaquia Uscap Ivoy, and also in relation to Article 19

of the Convention with regard to J.O.S. and María Eustaquia Uscap Ivoy; Article 5 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the members of the Río Negro community who survived the massacres, as well as to the detriment of the next of kin of the members of the Río Negro community; Articles 6, 17 and 19 of the American Convention, in relation to Article 1(1) thereof, to the detriment of Agustín Chen Osorio, Celestina Uscap Ivoy, Cruz Pérez Osorio, Froilan Uscap Ivoy, Jesús Tecú Osorio, José Osorio Osorio, Juan Chen Chen, Juan Chen Osorio, Juan Pérez Osorio, Juan Uscap Ivoy, Juana Chen Osorio, María Eustaquia Uscap Ivoy, Pedro Sic Sánchez, Silveria Lajuj Tum, Tomasa Osorio Chen, Florinda Uscap Ivoy and Juan Burrero; Articles 11(1), 12, 16, 21 and 24 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the members of the Río Negro community; Article 22 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the surviving members of the Río Negro community; Articles 8 and 25 of the American Convention, in relation to Article 1(1) thereof and to Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture and Article 7(b) of the Convention of Belém do Pará to the detriment of the survivors and the next of kin of those who were tortured and extrajudicially executed during the different massacres; Articles 8 and 25 of the American Convention, in relation to Article 1(1) thereof and to Article 1 of the Inter-American Convention on the Forced Disappearance of Persons, to the detriment of those who disappeared and their next of kin, and Articles 8(1) and 25 of the Convention, in relation to the provisions of Articles 1(1) and 2 of this instrument.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

16. Case of Fontevecchia and D'Amico v. Argentina

On December 10, 2010, pursuant to Articles 51 and 61 of the American Convention, the Inter-American Commission, filed a case against the State of Argentina concerning Fontevecchia and D'Amico. The facts of the case relate to the alleged violation of the right to freedom of expression of Héctor D'Amico and Jorge Fontevecchia who were director and editor, respectively, of the magazine *Noticias*. The alleged violation occurred because they were convicted under civil law as bearing the ultimate responsibility for the publication of two articles in the magazine in November 1995. In these publications, the journalists referred to the existence of an unacknowledged son of Carlos Saúl Menem, President of the Nation at the time, and a member of the national Congress; to the relationship between the President and the congresswoman, and to the relationship between the President and his son. Both the court of appeal and the Supreme Court of Justice of the Nation considered that Mr. Menem's right to privacy had been violated as a result of the said publications.

The Commission asked the Court to declare the State responsible for violating the rights embodied in Article 13 (Freedom of Thought and Expression), in relation to the obligations established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Mr. D'Amico and Mr. Fontevecchia.

Based on the above, the Commission asked the Court to order the State to adopt certain measures of reparation, pursuant to Article 63(1) (Obligation to make Reparation) of the Convention.

V. NEW PROVISIONAL MEASURES

Eight new requests for provisional measures were submitted to the Court's consideration in 2010.

1. Request for provisional measures in the matter of Four Ngöbe Indigenous Communities and their Members (Panama)

On January 19, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures to protect the life and personal integrity of the members of the following Ngöbe indigenous communities: Charco La Pava, Valle del Rey, Guayabal and Changuinola Arriba. The request was made: in order to suspend construction work and other activities related to the concession awarded to AES-Changuinola along the Changuinola River in the province of Bocas del Toro, until the organs of the inter-American human rights system were able to adopt a final decision on the matter described in the request; for the State to abstain from allegedly illegally restricting the freedom of movement of the members of the four Ngöbe indigenous communities, and to protect the special relationship of the Ngöbe indigenous communities with their ancestral lands, particularly to protect the use and enjoyment of the collective property and the natural resources with this territory, and to adopt measures designed to avoid immediate and irreparable damage resulting from the activities of third parties who encroach on the territory of this people or who exploit the natural resources within it, until the organs of the inter-American human rights system have adopted a final decision on the matter.

On May 28, 2010, the Court issued an order (**Annex 18**), in which it decided, *inter alia*, to reject the request for provisional measures filed by the Inter-American Commission, considering that it did not meet all the requirements established in Articles 63(2) of the American Convention and 27 of the Court's Rules of Procedure.

2. Provisional measures in the matter of Wong Ho Wing (Peru)⁷⁹

On February 24, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Peru to abstain from extraditing Wong Ho Wing to the Chinese People's Republic until the organs of the inter-American system for the protection of human rights have issued a final decision on the petition lodged before the Inter-American Commission pursuant to Article 44 of the Convention.

On March 24, 2010, the acting President of the Court for this matter issued an order (**Annex 74**), in which he decided, *inter alia*, to require the State to abstain from extraditing Wong Ho Wing while the request for provisional measures was being decided by the Court in plenary session.

⁷⁹ Judge Diego García Sayán, a Peruvian national, recused himself from hearing this matter, in accordance with Articles 19 of the Court's Statute and 21 of its Rules of Procedure, which the Court accepted. Accordingly, under Article 4(2) of the Rules of Procedure, Judge García Sayán ceded the Presidency to the Vice President of the Court, Judge Leonardo A. Franco, President *ad interim* for this case.

On May 28, 2010, the Court issued an order (**Annex 19**), in which it decided, *inter alia*, to require the State to abstain from extraditing Wong Ho Wing until December 17, 2010, in order to permit the Inter-American Commission to examine and rule on petition P-366-09 lodged before that organ on March 27, 2009.

On November 26, 2010, the Court issued an order on provisional measures in this matter (**Annex 57**), in which it decided, *inter alia*, to convene the Inter-American Commission, the Republic of Peru and the beneficiary's legal representative to a public hearing to be held at the seat of the Court during its ninetieth regular session, to be held from February 21 to March 5, 2011, in order to receive the arguments of the parties on the request to extend the provisional measures, and to require the State, in accordance with the provisions of the order, to abstain from extraditing Wong Ho Wing until March 31, 2011.

3. Request for provisional measures in the matter of Belfort Istúriz et al. (Venezuela)

On February 26, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Venezuela to protect the right to freedom of expression of Raiza Elizabeth Istúriz de Belfort, Nelson Enrique Belfort Istúriz, Antonio José Belfort Istúriz, Zayra Adela Belfort Istúriz and Luis Miguel Belfort, and William Echeverría, Beatriz Alicia Adrián García, Leopoldo Castillo Atencio and María Isabel Párraga, by keeping the radio stations that are part of the "*Belfort National Circuit*", which were closed by the State, on the air until the inter-American system has been able to take a decision in the matter. The radio stations that comprise the said circuit include: *Caraqueña Radioemisora* (in Caracas), *Falconiana Radioemisora* (in Punto Fijo), *Máxima Junín* (in Rubio), *Zuliana Radioemisora* (in Maracaibo) and *Valenciana Radioemisora* (in Valencia).

On April 15, 2010, the Court issued an order (**Annex 70**), in which it decided, *inter alia*, to reject the request for provisional measures filed by the Inter-American Commission, considering that it did not meet all the requirements established in Articles 63(2) of the American Convention and 27 of the Court's Rules of Procedure.

4. Request for provisional measures in the matter of Juan Almonte Herrera et al. (Dominican Republic)

On March 3, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of the Dominican Republic to adopt, immediately, provisional measures to protect the life and personal integrity of Juan Almonte Herrera, Yuverky Almonte Herrera, Joel Almonte, Ana Josefa Montilla, Genaro Rincón and Francisco de León Herrera.

El March 24, 2010, the President of the Court issued an order in which he decided, *inter alia*, to require the State to adopt, immediately, all necessary measures to determine the whereabouts of Juan Almonte Herrera and to protect his life and personal integrity; to require the State to adopt, immediately, all necessary measures to guarantee the life and personal integrity of Yuverky Almonte Herrera, Joel Almonte, Genaro Rincón and Francisco de León Herrera, and to require the State to adopt all necessary measures to guarantee the life and personal integrity of Ana Josefa Montilla, if she should decide to return to the Dominican Republic.

On May 25, 2010, the Court issued an order (**Annex 14**), in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of March 24, 2010, and, consequently, to require the State to maintain any measures it was implementing, as well as to adopt, immediately, any complementary measures to protect the life, personal integrity and liberty of Juan Almonte Herrera, and the life and integrity of Yuverky Almonte Herrera, Joel Almonte, Genaro Rincón and Francisco de León Herrera, as well as of Ana Josefa Montilla, if she should decide to return to the Dominican Republic, and to require the State to take all pertinent steps to ensure that the measures of protection ordered are planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that they are provided diligently and effectively and, in general, that it keep them informed of any progress in their execution.

5. Request for provisional measures in the matter of COFAVIC (case of El Caracazo) (Venezuela)

On March 4, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Venezuela to grant provisional measures in favor of the representatives of the victims in the case of El Caracazo, who are part of COFAVIC.

On May 28, 2010, the Court issued an order (**Annex 20**), in which it decided, *inter alia*, to reject the request for provisional measures filed by the representatives and annex the respective documentation to the file on monitoring compliance with the judgment on reparations and costs of August 29, 2002, in the case of El Caracazo v. Venezuela.

6. Request for provisional measures in the matter of the Interchurch Commission of Justice and Peace (Colombia)

On April 14, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Colombia to protect the life and personal integrity of the members of the Interchurch Commission of Justice and Peace.

On November 22, 2010, the Court issues an order (**Annex 58**), in which it decided, *inter alia*, to reject the request for provisional measures presented by the Inter-American Commission in favor of the members of the Interchurch Commission of Justice and Peace.

7. Request for provisional measures in the matter of Alvarado Reyes et al. (Mexico)

On May 13, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Mexico to protect the life and personal integrity of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, who were allegedly detained on December 29, 2009, with no information on their whereabouts.

On May 26, 2010, the Court issued an order (**Annex 17**), in which it decided, *inter alia*, to require the State to adopt, immediately, all necessary measures to determine, as soon as possible, the whereabouts of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, as well as to protect their personal liberty, their personal integrity and their life, and to require the State to advise the Inter-American Court of the provisional measures adopted.

On November 26, 2010, the Court issued another order (**Annex 53**), in which it decided to expand the provisional measures granted in this matter in order to require the State to adopt immediately all necessary measures to protect the life and personal integrity of 24 family members of the initial beneficiaries, namely: Patricia Reyes Rueda, Alan Alvarado Reyes, Adrián Alvarado Reyes, Michelle Urrutia Alvarado, Manuel Reyes, Obdulia Espinoza Beltrán, Johana Alvarado Espinoza, José Ángel Alvarado Espinoza, Angélica Alvarado Espinoza, José Ángel Alvarado Favela, Concepción Herrera Hernández, Jaime Alvarado Herrera, Manuel Melquiádes Alvarado Herrera, Rosa Olivia Alvarado Herrera, Karina Paola Alvarado Alvarado, Fabián Alvarado Herrera, Feliz García, Mitzi Paola Alvarado Espinoza, Nitza Citlali Alvarado Espinoza, Daisy Alvarado Espinoza, María de Jesús Alvarado Espinoza, Rigoberto Ambriz Marrufo, María de Jesús Espinoza Peinado and Ascensión Alvarado Favela, and one representative of the beneficiaries, Emilia González Tercero. In addition, it also decided to reject the request to expand the measures in favor of six other representatives of the beneficiaries, namely: Patricia Galarza Gándara, Brenda Andazola, Luz Esthela Castro Rodríguez, Oscar Enríquez, Javier Ávila Aguirre and Francisca Galván. Lastly, it decided to require the State to inform the Court every two months on the measures adopted in compliance with this order.

8. Request for provisional measures in the matter of Gladys Lanza Ochoa (Honduras)

On August 31, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Honduras to protect the life and personal integrity of Gladys Lanza Ochoa, owing to the alleged threats and harassment of which she has been a victim.

On September 2, 2010, the Court issued an order (**Annex 39**), in which it decided, *inter alia*, to require the State of Honduras to adopt, immediately, all necessary measures to protect the life and personal integrity of Gladys Lanza Ochoa, and to require the State to inform the Inter-American Court every two months with regard to the provisional measures adopted in accordance with this decision.

9. Request for provisional measures in the matter of the Aragua Detention Center "Tocorón Prison" (Venezuela)

On October 18, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Venezuela to protect the life and integrity of the persons deprived of liberty and other persons present in the Aragua Detention Center, also known as the Tocorón Prison.

On November 1, 2010, the President of the Court issued an order, in which he decided, *inter alia*, to require the State to adopt immediately all necessary measures to avoid loss of life or harm to the physical, mental and moral integrity of all the

persons deprived of liberty in the Aragua Detention Center, also known as the Tocarón Prison, as well as of any person within this establishment.

On November 24, 2010, the Court issued an order on provisional measures in this matter (**Annex 54**), in which it decided, *inter alia*, to ratify all aspects of the order of the President of the Inter-American Court of November 1, 2010, and, consequently, to require the State to maintain any measures it was implementing, and also to adopt, immediately and definitively, any complementary measures that were necessary to avoid loss of life and damage to physical, mental and moral integrity of all those who are deprived of liberty in the Aragua Detention Center, also known as the Tocarón Prison, as well as of any person who is within the said establishment, and to call upon the State to take the necessary measures to ensure that the measures of protection required in this order are planned and implemented with the participation of the representatives of the beneficiaries and, in general, to keep them informed of any progress in the execution of the measures.

10. Request for provisional measures in the matter of María Lourdes Afiuni (Venezuela)

On November 30, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures to protect the life and integrity of María Lourdes Afiuni.

On December 10, 2010, the President of the Court issued an order for urgent measures (**Annex 75**), in which he decided, *inter alia*, to require the State to adopt all necessary measures to guarantee the life and physical, mental and moral integrity of María Lourdes Afiuni; to require the State to adopt measures to ensure that she is kept in a detention place appropriate to her particular circumstances, respecting the function she exercised as a criminal judge, and to require the State, should she require specialized medical care, to adopt the necessary measures to ensure that she is attended by doctors of her own choice.

11. Request for provisional measures in the matter of José Luis Galdámez Álvarez et al. (Honduras)

On December 6, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures for the State of Honduras to protect the life, personal integrity and freedom of expression of José Luis Galdámez Álvarez and his companion and children.

On December 22, 2010, the President of the Court issued an order (**Annex 76**), in which, *inter alia*, he decided to require the State to adopt all necessary measures to guarantee the life and personal integrity of José Luis Galdámez Álvarez, together with his companion and children.

12. Request for provisional measures in the matter of the Socio-educational Internment Unit (Brazil)

On December 30, 2010, pursuant to Articles 63(2) of the American Convention and 27 of the Rules of Procedure of the Court, the Inter-American Commission submitted to the Court a request for provisional measures to protect the life and personal

integrity of the children and adolescents deprived of liberty and other persons within the *Socio-educational Internment Unit* in the municipality of Cariacica, state of Espírito Santo, Brazil.

VI. STATUS OF MATTERS BEING PROCESSED BY THE COURT

1. Contentious cases

At the end of 2010, 21 cases were pending the Court's judgment; of these, fourteen are at the initial processing stage, four at the stage of preliminary objections and possible merits, reparations and costs, two at the stage of merits and possible reparations and costs, and one at the stage of reparations and costs. In addition, 111 cases are at the stage of monitoring compliance with judgment, which adds up to a total of 132 cases being processed by the Court.

1. a. Contentious cases pending judgment:

	Name	Date submitted	Respondent State	Current stage
1.	Case of Salvador Chiriboga	12/12/06	Ecuador	Reparations and costs
2.	Case of Lysias Fleury and family	05/08/09	Haiti	Initial processing
3.	Case of Mejía Idrovo	19/11/09	Ecuador	Preliminary objections and possible merits, reparations and costs
4.	Case of Chocrón Chocrón	25/11/09	Venezuela	Merits and possible reparations and costs
5.	Case of López Mendoza	14/12/09	Venezuela	Preliminary objections and possible merits, reparations and costs
6.	Case of Abrill Alosilla <i>et al.</i>	16/01/10	Peru	Merits and possible reparations and costs
7.	Case of Gelman	21/01/10	Uruguay	Merits and possible reparations
8.	Case of Vera Vera <i>et al.</i>	24/02/10	Ecuador	Preliminary objection, merits and possible reparations and costs
9.	Case of Alicia Barbani Duarte, María del Huerto Breccia <i>et al.</i> (Depositors of Banco de Montevideo)	16/03/10	Uruguay	Merits, reparations and costs
10.	Case of Torres <i>et al.</i>	18/04/10	Argentina	Initial processing
11.	Case of Kichwa Indigenous People of Sarayaku	26/04/10	Ecuador	Initial processing
12.	Case of Narciso González Medina <i>et al.</i>	02/05/10	Dominican Republic	Initial processing
13.	Case of Jorge Fernando Grande	04/05/10	Argentina	Initial processing
14.	Case of Gregoria Herminia Contreras <i>et al.</i>	28/06/10	El Salvador	Initial processing

15.	Case of Barrios Family	26/07/10	Venezuela	Initial processing
16.	Case of Karen Atala and Daughters	17/09/10	Chile	Initial processing
17.	Néstor José and Luis Uzcátegui <i>et al.</i>	22/10/10	Venezuela	Initial processing
18.	Case of Díaz Peña	12/11/10	Venezuela	Initial processing
19.	Milagros Fornerón and Leonardo Aníbal Fornerón	29/11/10	Argentina	Initial processing
20.	Río Negro Massacre	30/11/10	Guatemala	Initial processing
21.	Fontevicchia and D`Amico	10/12/10	Argentina	Initial processing

1. b. Contentions cases at the stage of monitoring compliance with judgment

	Name	Respondent State	Current stage
1.	Case of 19 Tradesmen	Colombia	Monitoring compliance with judgment
2.	Case of Acevedo Buendía <i>et al.</i> ("Dismissed and Retired Employees of the Comptroller's Office")	Peru	Monitoring compliance with judgment
3.	Case of Acevedo Jaramillo <i>et al.</i>	Peru	Monitoring compliance with judgment
4.	Case of Albán Cornejo <i>et al.</i>	Ecuador	Monitoring compliance with judgment
5.	Case of Almonacid Arellano	Chile	Monitoring compliance with judgment
6.	Case of Anzualdo Castro	Peru	Monitoring compliance with judgment
7.	Case of Apitz Barbera <i>et al.</i>	Venezuela	Monitoring compliance with judgment
8.	Case of Baena Ricardo <i>et al.</i>	Panama	Monitoring compliance with judgment
9.	Case of Baldeón García	Peru	Monitoring compliance with judgment
10.	Case of Bámaca Velásquez	Guatemala	Monitoring compliance with judgment
11.	Case of Barreto Leiva	Venezuela	Monitoring compliance with judgment
12.	Case of Barrios Altos	Peru	Monitoring compliance with judgment
13.	Case of Bayarri	Argentina	Monitoring compliance with judgment
14.	Case of Benavides Cevallos	Ecuador	Monitoring compliance with judgment
15.	Case of Blake	Guatemala	Monitoring compliance with judgment

16.	Case of Blanco Romero <i>et al.</i>	Venezuela	Monitoring compliance with judgment
17.	Case of Boyce <i>et al.</i>	Barbados	Monitoring compliance with judgment
18.	Case of Bueno Alves	Argentina	Monitoring compliance with judgment
19.	Case of Bulacio	Argentina	Monitoring compliance with judgment
20.	Case of Caballero Delgado and Santana	Colombia	Monitoring compliance with judgment
21.	Case of Cabrera García and Montiel Flores	Mexico	Monitoring compliance with judgment
22.	Case of Caesar	Trinidad and Tobago	Monitoring compliance with judgment
23.	Case of <i>Campo Algodonero</i>	Mexico	Monitoring compliance with judgment
24.	Case of Cantoral Benavides	Peru	Monitoring compliance with judgment
25.	Case of Cantoral Huamaní and García Santa Cruz	Peru	Monitoring compliance with judgment
26.	Case of Cantos	Argentina	Monitoring compliance with judgment
27.	Case of Carpio Nicolle <i>et al.</i>	Guatemala	Monitoring compliance with judgment
28.	Case of Castañeda Gutman	Mexico	Monitoring compliance with judgment
29.	Case of Castillo Páez	Peru	Monitoring compliance with judgment
30.	Case of Castillo Petruzzi <i>et al.</i>	Peru	Monitoring compliance with judgment
31.	Case of Cepeda Vargas	Colombia	Monitoring compliance with judgment
32.	Case of Cesti Hurtado	Peru	Monitoring compliance with judgment
33.	Case of the "Five Pensioners"	Peru	Monitoring compliance with judgment
34.	Case of the Sawhoyamaya Indigenous Community	Paraguay	Monitoring compliance with judgment
35.	Case of the Xákmok Kásek Indigenous Community	Paraguay	Monitoring compliance with judgment
36.	Case of the Yakye Axa Indigenous Community	Paraguay	Monitoring compliance with judgment
37.	Case of the Moiwana Community	Suriname	Monitoring compliance with judgment
38.	Case of Chaparro Álvarez and Lapo Íñiguez	Ecuador	Monitoring compliance with judgment
39.	Case of Chitay Nech <i>et al.</i>	Guatemala	Monitoring compliance with judgment
40.	Case of Dacosta Cadogan	Barbados	Monitoring compliance with judgment

41.	Case of De La Cruz Flores	Peru	Monitoring compliance with judgment
42.	Case of Las Dos Erres Massacre	Guatemala	Monitoring compliance with judgment
43.	Case of the Mapiripán Massacre	Colombia	Monitoring compliance with judgment
44.	Case of the Pueblo Bello Massacre	Colombia	Monitoring compliance with judgment
45.	Case of the Serrano Cruz Sisters	El Salvador	Monitoring compliance with judgment
46.	Case of the Ituango Massacres	Colombia	Monitoring compliance with judgment
47.	Case of the La Rochela Massacre	Colombia	Monitoring compliance with judgment
48.	Case of the Yean and Bosico Girls	Dominican Republic	Monitoring compliance with judgment
49.	Case of the "Street Children" (Villagrán Morales <i>et al.</i>)	Guatemala	Monitoring compliance with judgment
50.	Case of El Caracazo	Venezuela	Monitoring compliance with judgment
51.	Case of the Miguel Castro Castro Prison	Peru	Monitoring compliance with judgment
52.	Case of the Constitutional Court	Peru	Monitoring compliance with judgment
53.	Case of Durand and Ugarte	Peru	Monitoring compliance with judgment
54.	Case of El Amparo	Venezuela	Monitoring compliance with judgment
55.	Case of Escué Zapata	Colombia	Monitoring compliance with judgment
56.	Case of Escher <i>et al.</i>	Brazil	Monitoring compliance with judgment
57.	Case of Fermín Ramírez	Guatemala	Monitoring compliance with judgment
58.	Case of Fernández Ortega <i>et al.</i>	Mexico	Monitoring compliance with judgment
59.	Case of García Asto and Ramírez Rojas	Peru	Monitoring compliance with judgment
60.	Case of García Prieto <i>et al.</i>	El Salvador	Monitoring compliance with judgment
61.	Case of Garibaldi	Brazil	Monitoring compliance with judgment
62.	Case of Garrido and Baigorria	Argentina	Monitoring compliance with judgment
63.	Case of Goiburú <i>et al.</i>	Paraguay	Monitoring compliance with judgment
64.	Case of Gomes Lund <i>et al.</i>	Brazil	Monitoring compliance with judgment
65.	Case of Gómez Palomino	Peru	Monitoring compliance with judgment
66.	Case of Gutiérrez Soler	Colombia	Monitoring compliance with

			judgment
67.	Case of Heliodoro Portugal	Panama	Monitoring compliance with judgment
68.	Case of the Gómez Paquiyauri Brothers	Peru	Monitoring compliance with judgment
69.	Case of Hilaire, Constantine, Benjamin <i>et al.</i>	Trinidad and Tobago	Monitoring compliance with judgment
70.	Case of Huilca Tecse	Peru	Monitoring compliance with judgment
71.	Case of Ibsen Cárdenas and Ibsen Peña	Bolivia	Monitoring compliance with judgment
72.	Case of the "Children's Rehabilitation Institute"	Paraguay	Monitoring compliance with judgment
73.	Case of Ivcher Bronstein	Peru	Monitoring compliance with judgment
74.	Case of Juan H. Sánchez	Honduras	Monitoring compliance with judgment
75.	Case of Kimel	Argentina	Monitoring compliance with judgment
76.	Case of Kawas Fernández	Honduras	Monitoring compliance with judgment
77.	Case of La Cantuta	Peru	Monitoring compliance with judgment
78.	Case of Las Palmeras	Colombia	Monitoring compliance with judgment
79.	Case of Loayza Tamayo	Peru	Monitoring compliance with judgment
80.	Case of López Álvarez	Honduras	Monitoring compliance with judgment
81.	Case of Lori Berenson Mejía	Peru	Monitoring compliance with judgment
82.	Case of Maritza Urrutia	Guatemala	Monitoring compliance with judgment
83.	Case of the Plan de Sánchez Massacre	Guatemala	Monitoring compliance with judgment
84.	Case of Molina Theissen	Guatemala	Monitoring compliance with judgment
85.	Case of Montero Aranguren <i>et al.</i>	Venezuela	Monitoring compliance with judgment
86.	Case of Myrna Mack Chang	Guatemala	Monitoring compliance with judgment
87.	Case of Neira Alegría <i>et al.</i>	Peru	Monitoring compliance with judgment
88.	Case of Palamara Iribarne	Chile	Monitoring compliance with judgment
89.	Case of Paniagua Morales <i>et al.</i>	Guatemala	Monitoring compliance with judgment
90.	Case of Perozo <i>et al.</i>	Venezuela	Monitoring compliance with judgment
91.	Case of the Saramaka People	Suriname	Monitoring compliance with

			judgment
92.	Case of Radilla Pacheco	Mexico	Monitoring compliance with judgment
93.	Case of Raxcacó Reyes	Guatemala	Monitoring compliance with judgment
94.	Case of Reverón Trujillo	Venezuela	Monitoring compliance with judgment
95.	Case of Ríos <i>et al.</i>	Venezuela	Monitoring compliance with judgment
96.	Case of Rosendo Cantú <i>et al.</i>	Mexico	Monitoring compliance with judgment
97.	Case of Servellón García <i>et al.</i>	Honduras	Monitoring compliance with judgment
98.	Case of Suárez Rosero	Ecuador	Monitoring compliance with judgment
99.	Case of Tibi	Ecuador	Monitoring compliance with judgment
100.	Case of Ticona Estrada	Bolivia	Monitoring compliance with judgment
101.	Case of Tiu Tojín	Guatemala	Monitoring compliance with judgment
102.	Case of the Dismissed Congressional Employees	Peru	Monitoring compliance with judgment
103.	Case of Trujillo Oroza	Bolivia	Monitoring compliance with judgment
104.	Case of Usón Ramírez	Venezuela	Monitoring compliance with judgment
105.	Case of Valle Jaramillo <i>et al.</i>	Colombia	Monitoring compliance with judgment
106.	Case of Vargas Areco	Paraguay	Monitoring compliance with judgment
107.	Case of Vélez Loor	Panama	Monitoring compliance with judgment
108.	Case of Ximenes Lopes	Brazil	Monitoring compliance with judgment
109.	Case of YATAMA	Nicaragua	Monitoring compliance with judgment
110.	Case of Yvon Neptune	Haiti	Monitoring compliance with judgment
111.	Case of Zambrano Vélez <i>et al.</i>	Ecuador	Monitoring compliance with judgment

2. Provisional measures

During 2010, the Court had forty-six active provisional measures.

	Name	State regarding which they were adopted
1.	19 Tradesmen	Colombia
2.	Adrián Meléndez Quijano <i>et al.</i>	El Salvador

3.	Alvarado Reyes <i>et al.</i>	Mexico
4.	Álvarez <i>et al.</i>	Colombia
5.	A. J. <i>et al.</i>	Haiti
6.	Andino Alvarado (Kawas Fernández)	Honduras
7.	Bámaca Velásquez <i>et al.</i>	Guatemala
8.	Caballero Delgado and Santana	Colombia
9.	Urso Branco Prison	Brazil
10.	Carpio Nicolle <i>et al.</i>	Guatemala
11.	Aragua Detention Center "Tocorón Prison"	Venezuela
12.	Peace Community of San José de Apartadó	Colombia
13.	The Jiguamiandó and the Curbaradó Communities	Colombia
14.	Eloisa Barrios <i>et al.</i>	Venezuela
15.	"Globovisión" television station	Venezuela
16.	Fernández Ortega <i>et al.</i>	Mexico
17.	Guatemalan Forensic Anthropology Foundation	Guatemala
18.	Giraldo Cardona <i>et al.</i>	Colombia
19.	Gladys Lanza	Honduras
20.	Gloria Giralte de García Prieto <i>et al.</i>	El Salvador
21.	Guerrero Gallucci and Martínez Barrios	Venezuela
22.	Guerrero Larez	Venezuela
23.	Gutiérrez Soler <i>et al.</i>	Colombia
24.	Haitians and Dominicans of Haitian origin in the Dominican Republic	Dominican Republic
25.	Helen Mack <i>et al.</i>	Guatemala
26.	Monagas Detention Center ("La Pica"); Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); Occidental Region Penitentiary Center (Uribana Prison); Capital Detention Center El Rodeo I and El Rodeo II. In an order of the Court of November 24, 2009, these measures were joined and expanded in favor of Humberto Prado.	Venezuela
27.	Juan Almonte Herrera <i>et al.</i>	Dominican Republic
28.	Dottin <i>et al.</i>	Trinidad and Tobago
29.	Luis Uzcátegui	Venezuela
30.	Luisiana Ríos <i>et al.</i>	Venezuela
31.	María Leontina Millacura Llaipén <i>et al.</i>	Argentina
32.	Marta Colomina and Liliana Velásquez	Venezuela
33.	La Rochela Massacre	Colombia
34.	Mapiripán Massacre	Colombia
35.	Mery Naranjo <i>et al.</i>	Colombia
36.	Natera Balboa	Venezuela
37.	Mendoza Prisons	Argentina
38.	Pérez Torres <i>et al.</i> ("Campo Algodonero")	Mexico
39.	Kankuamo Indigenous People	Colombia
40.	Kichwa Indigenous People of Sarayaku	Ecuador
41.	Ramírez Hinostroza <i>et al.</i>	Peru
42.	Raxcacó Reyes <i>et al.</i>	Guatemala
43.	Wong Ho Wing	Peru

44.	José Luis Galdámez Álvarez <i>et al.</i>	Honduras
45.	María Lourdes Afiuni	Venezuela
46.	Rosendo Cantú <i>et al.</i>	Mexico

Thereof, in 2010 a request of provisional measures arrived regarding “Inter Socio-educative Unit” of Brazil. The Court informed the State for which the decision to adopt the measure is being processed.

VII. OTHER ACTIVITIES OF THE COURT

The following is a description of the principal activities of the Court during 2010:

Presentation of the 2009 Annual Report on the Work of the Inter-American Court of Human Rights

On March 18, 2010, the President of the Court, accompanied by the Secretaries of the Court presented the 2009 Annual Report on the work of the Inter-American Court to the OAS Committee on Juridical and Political Affairs (CAJP). During this activity, Judge García-Sayán presented a “Summary of the 2009 exercise” (**Annex 77**).

In his presentation, the President reiterated the outline of the short, medium and long-term plan for financing the Court’s activities. Among other matters, he stated that: “at the request of the OAS Member States, the Court was asked to submit its short, medium and long-term financial requirements. On February 5, 2009, the Secretary of the Court, in a meeting with the CAJP and the CAAP [Committee on Administrative and Budgetary Affairs], made the requested presentation. As indicated on that occasion, the Court requires a gradual and shared reinforcement of the three fundamental elements for its operations, namely: (1) the collegiate organ and its members; (2) the legal area, and (3) the operational-administrative area. The financial requirements in the short, medium and long-term were indicated for each area. Today I reiterate the presentation made over a year ago.”

Subsequently, on May 24, 2010, the Permanent Council adopted resolution CP/CAJP 2869/10 with “Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights.”

Fortieth regular session of the General Assembly of the Organization of American States

The fortieth regular session of the General Assembly of the Organization of American States was held from June 6 to 8, 2010, in Lima, Peru. The Inter-American Court was represented by its President, Vice President and Secretaries.

On June 8, 2010, the President of the Court addressed the plenary session of the Assembly (**Annex 78**) and, *inter alia*, referred to: the importance of the international protection of human rights retaining the highest priority on the Organization’s political agenda; the hope that the States that had not yet acceded to the American Convention would become party to it, and the incorporation of the criteria established by the Court into the domestic law of the States Parties. He also referred to the increase in the number of contentious cases, and requests for

advisory opinions and provisional measures submitted to the Court, which was one of the most important and most worrying challenges for the inter-American jurisdiction, and to recognition of the importance of compliance with the Court's decisions and the efforts made by the States to ensure that such decisions were fully respected.

Lastly, the President indicated that one of the greatest challenges faced by the Court relates to the issue of financing. In this regard, the President stated that "the Court only receives 2.1% of the OAS ordinary budget; hence its operational functions and ordinary activities are only possible owing to the voluntary cooperation of some member countries and, particularly, to cooperation by Spain and Norway." Moreover, the President indicated that it was essential that the system's member countries, which created the Court, ensured that its regular functions can be maintained with resources from the Organization's ordinary budget and not merely by significant contributions from countries that are not even members of the system.

The same day, the OAS General Assembly approved the Court's 2009 Annual Report in Resolution AG/RES. 2587 (XL-O/10), available at: <http://www.oas.org/consejo/GENERAL%20ASSEMBLY/Resoluciones-Declaraciones.asp>

Also the same day, the OAS General Assembly adopted Resolution AG/RES. 2605 (XL-O/10) entitled "Strengthening of Human Rights Systems pursuant to the mandates arising from the Summits of the Americas." Available at: <http://www.oas.org/consejo/GENERAL%20ASSEMBLY/ResolucionesDeclaraciones.asp>