Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Leonidas A. Baena Ricardo et al. v. Panama
Doc. Type:	Judgment (Merits, Reparations and Costs)
Decided by:	President: Antonio A. Cancado Trindade; Vice President: Maximo Pacheco-Gomez; Judges: Hernan Salgado-Pesantes; Oliver Jackman; Alirio Abreu-Burelli; Sergio Garcia-Ramirez; Carlos Vicente de-Roux-Rengifo
Dated:	2 February 2001
Citation:	Baena Ricardo v. Panama, Judgment (IACtHR, 2 Feb. 2001)

In the Baena Ricardo et al. case,

The Inter-American Court of Human Rights (hereinafter the "Court," the "Inter-American Court," or the "Tribunal"), in accordance with Articles 29 and 55 of the Rules of Procedure of the Court (hereinafter the "Rules of Procedure"), delivers the following judgment on the instant case.

I. INTRODUCTION OF THE CASE

1. On January 16, 1998, the Inter-American Commission on Human Rights (hereinafter the "Commission" or the "Inter-American Commission") referred to the Court a complaint against the Republic of Panama (hereinafter the "State" or "Panama"), which derived from petition number 11.325, received by the Secretariat of the Commission on February 22, 1994. In its application, the Commission invoked Articles 50 and 51 of the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention") and Articles 26 et seq. of the Rules of Procedure. The Commission submitted this case in order for the Court to decide whether or not Panama had violated Articles 1(1) (Obligation to Respect Rights); 2 (Domestic Legal Effects); 8 (Right to a Fair Trial); 9 (Freedom from Ex Post Facto Laws); 10 (Right to Compensation); 15 (Right of Assembly); 16 (Freedom of Association); 25 (Right to Judicial Protection), and 33 and 50(2) of the Convention, as a result of

the events that occurred as of December 6, 1990, and especially as of December 14 of said year (, date), when Law N° 25 was passed [on the basis of which] 270 government employees who had participated in a demonstration for labour rights, and who were accused of complicity for perpetrating a military coup, were arbitrarily dismissed. After [the arbitrary dismissal of said workers], in the procedure pertinent to their complaints and demands, a number of violations of their right to the due process and to judicial protection were committed.

2. In like manner, the Commission requested the Court to declare that Law 25 and the rule contained in Article 43 of the Constitution of Panama were contrary to the Convention, since they permitted the retroactive enforcement of the laws and that, consequently, they should be modified or repealed pursuant to Article 2 of said Convention. The Commission also requested the Court to require the State to re-establish the 270 workers in the exercise of their rights and to make reparations to and compensate the victims or their families for the acts committed by its agents, as established in Article 63(1) of the Convention.

3. Lastly, the Commission requested that the State should be condemned to pay the costs and expenses of the proceeding.

4. The 270 workers that the Commission considers have been the victims in this case are: Leonidas A. Baena Ricardo, Alfredo Berrocal Arosemena, Francisco J. Chacón, Arístides Barba Vega, Salvador Vela, Eugenio Delgado, Juan O. Sanjur. Porfirio Real, Luis del Carmen Melgarejo Núñez, Juan de Gracia, César Aparicio Aguilar, Fernando Dimas, Eugenio Tejada, Felipe Argote, Luis Cabeza, Rolando Graham, Rigoberto Enríquez, Ilda Ortega, Ismael Campbell, Carlos Henry, Tomás Morales, Daniel José Health, Maricela Rodríguez, Miguel Martínez, Carlos Archibold, Gabino Young, Sergio Marín, Jaime Legal, Enrique Jiménez, Luis Martínez, José Corvalan, Fernando Hernández, Militza de Justavino, Andrés Guerrero, Marco Moscoso, Hildebrando Ortega, Saúl Quiroz, Enrique Silvera, Elías Manuel Ortega, Euribiades Marín, Domingo Montenegro Domínguez, César Augusto Contreras Pérez, Marina Elena Villalobos, Eduardo Cobos, Iraida Castro, Eduardo Williams, Ricardo Simmons, Rolando Miller, Yitus Henry, Guillermo Torralba, Eleno García, Alfonso Chambers, Manuel Sánchez, Francisco Segura, Jorge Cobos, Jorge Murillo, Ricardo Powel, Antonio Murez, María Sánchez, Lidia Marín, Gustavo Mendieta, Carlos Márquez, Hermes Marín, Gustavo Martínez, Alejandrina Gordon, Leonel Angulo, Luis Estribi, Carlos Catline, Orlando Camarena, Errol Vaciannie, Regino Ramírez, Carlos Mendoza, Luis Coronado, Ricardo Rivera, Rolando Roa, Walters Vega, Modier Méndez, Tilcia Paredes, Alexis Díaz, Marisol Matos, Rigobeno Isaac, Jorge Aparicio, Ramiro Barba, Eugenio Fuentes, Algis Calvo, Marcos Tovar, Elberto Cobos, Yadira Delgado, Mireya Rodríguez, Ivanor Alonso, Alfonso Fernández, Rodolfo Campos, Nemesio Nieves, Judith Correa, Edgar de León, Arnoldo Aguilar, Marisol Landao, Wilfredo Rentería, Segismundo Rodríguez, Pedro Valdez, Ricardo Guisepitt, Javier Muñoz, Marcos Guerrero, Nicolás Soto, Ernesto Walker, Adela De Góndola, Víctor Julio Carrido, David Clavo, Germán Gálvez, Aldo D'andrea, Jorge Rivas, Hugo Pérez, Diómedes Romero, Paulino Villareal, Euclides Madrid, Nelson Alvarado, Arturo González, Aurelio González, Miguel Prado P., Roberto Guerra, César De Ovaldia, Luis Bedoya, José Guaitoto, Tomás González, Florentino Cerrión, Carlos Philips, Rómulo Howard, Alexis Cañas, Nelson Cortés, Roselio Luna, David Jaén, José Pérez, Luis Cárdenas, Jorge Alegría, Andrés Alemán, Perlina De Andrade, Luis E. Anava, Santiago Alvarado, Javier Atencio A., Víctor Arauz, Pedro Atencio, Álvaro Arauz, Rubén Darío Barraza, Carlos Beamont, Samuel Beluche, Andrés Bermúdez, Miguel Bermúdez, Luis Benuil, Alba Berrio, Marcos Bracamaya, Mario Brito, José Blanco, Víctor Bock, Víctor Buenaño, Jaime Batista, Heliodo Bermúdez, Luis Batista, Jaime Camarena, Juanerje Carrillo, Robustiano Castro, Ladislao Caraballo, Reynaldo Cerrud, Manuel Corro, Minerva De Campbell, Xiomara Cárdenas, Cayetano Cruz, Luciano Contreras, Nataniel Charles, Domingo De Gracia, Fernando Del Río G., Antonia De Del Vasto, Manuel Del Vasto, Roberto Escobar, César Espino, Jaime Espinosa, Jorge Ferman, Julio Flores, Alexis Garibaldi, Eduardo Gaslin, Rolando Gómez, Antonio

González, Benito González, Eric González, Raúl González R., Evangelista Granja, Rubén Guevara, Alfredo Guerra, Esther María Guerra, Rita Guerra, Melva Guerrero, Aníbal Herrera, Félix Herrera, Magaly De-Herrera, Manuel Herrera, Pompilio Ibarra, Daniel Jiménez, Rolando Jiménez, José A. Kelly, Eric Lara, Dennis Lasso, Dirie Lauchú, Luis A. Laure, Gilberto Leguizamo, Darien Linares, César Lorenzo, Zilka Lou, Jorge Martínez, Manrique Mejía, Luis Miranda, Oran Darío Miranda, Luis Montero, Valentín Morales, Natalio Murillo, Raúl Murrieta, Estabana Nash, Amed Navalo, Sergio Ochoa, Antonio Ornano, Gustavo Ortiz, Ornar Oses, Luis Osorio, Miguel A. Osorio, Evelio Otero, Esteban Perea, Medardo Perea, Cristina Pérez, Fredy Pérez, Rubén Darío Pérez, Mario Pino, Giovani Prado, Pablo Prado, Tomás Pretel, Juan B. Quijada, Donay Ramos, Dorindo Ríos, Iris Magaly Ríos, Ricardo Ríos, Syldee Ríos, Vladimir Ríos, Luis Risco, Alidio Rivera, Amos Darío Rodríguez, Anelly De Rodríguez, Isac M. Rodríguez, Ernesto Romero, Sandra L. De Romero, Ramón Ruiz, Benigno Saldaña, Jaime Salinas, Ilka De Sánchez, Luis Sánchez, José Santamaría, Cristóbal Segundo, Tomás Segura, Enrique Sellhom, Teresa De Sierra, Sonia Smith, Elvira De Solórzano. Luis Sosa, Víctor J. Soto, Rafael Tait Yepes, Josefina Tello, Daniel Trejos, Ricardo Trujillo, Luis Tuñón, Marisina Ubillus, Manuel Valencia, Rodolfo Vence, José Villareal y Rodolfo Winter.

II. COMPETENCE

5. Panama has been a State Party to the American Convention since June 22, 1978 and recognised the jurisdiction of the Court on May 9, 1990. Therefore, the Court is competent to hear the instant case.

III. PROCEEDING BEFORE THE COMMISSION

6. On February 22, 1994 the Secretariat of the Commission received a petition from the Panamanian Human Rights Committee on behalf of 270 public employees dismissed as a consequence of Law 25 of December 14, 1990. On July 6, 1994 the Commission informed the State of the petition and requested it to present the corresponding information within 90 days.

7. On July 24 and October 19, 1994, the Commission sent the State additional information presented by the complainant and, in the latter communication, requested it to adopt the pertinent measures to present all its reports within 60 days.

8. On September 9, 1994, Panama presented its reply to the Commission, which forwarded it to the complainant on October 25, 1994, and on January 24, 1995, the complainant presented its observations to this document, which were forwarded to the State on January 31, 1995.

9. On February 14, 1995, the State presented its observations to the additional information that the Commission had forwarded on October 19, 1994, and on March 1, 1995, the Commission forwarded them to complainant.

10. On April 7, 1995 the Commission made itself available to the parties in order to reach a friendly settlement. Although both the State and the petitioners informed the Commission that they were interested in reaching a friendly settlement, after almost three years during which three

meetings were held to try and reach a settlement, "the Commission considered that the action for settlement had been exhausted and initiated the legal proceeding."

11. On October 16, 1997, during its 97th session, the Commission approved Report No. 37/97, which was forwarded to the State on October 17, 1997. In this report, the Commission concluded:

148. That the acts of the State public authorities by which the Legislative Assembly adopted Law 25 of December 14, 1990, the Judiciary declared that it was almost completely constitutional and the Executive applied it and on the basis of which the human rights of the petitioners were violated and all their claims were rejected are incompatible with the provisions of the American Convention on Human Rights.
149. That, with regard to the 270 persons in whose name this case has been filed, the State of Panama has failed to comply with its obligations under the following provisions of the American Convention on Human Rights: ArticIe 8 (Right to a Fair trial), Article 9 (Freedom from Ex post Facto Laws), Article 10 (Right to Compensation), Article 15 (Right of Assembly), Article 16 (Freedom of Association), Article 24 (Right to Equal protection), and Article 25 (Right to Judicial Protection).
150. That with regard to these same persons the state of panama has failed to comply with its obligation to recognise and guarantee the rights contained in Articles 8 and 25, in relation to Article 1(1) and 2 of the American Convention on Human Rights, to which Panama is a State Party.
151. That the state has not complied with the provisions of Article 2 of the American Convention on Human Rights, since it has not adapted its legislation to the provisions of the Convention.

Moreover, the Commission determined:

1. To recommend to the Panamanian State that it should order the reinstatement of the workers dismissed under Law 25 of December 14, 1990 identified in paragraph 5 of this report, in their respective positions or in others with the same conditions as those in which they were working at the time they were dismissed; that it should recognise their back pay and other fringe benefits to which they have a right; and that it should pay them compensation for the damage caused by their unjustified dismissal.
2. To recommend to the State that, pursuant to the constitutional and legislative procedures in force, it should adopt all necessary measures to make the rights and guarantees contained in the American Convention on Human Rights fully effective.
3. To recommend to the State that it should modify, repeal or permanently annul the said Law 25.
4. To recommend to the State that the expression "to punish without prior trial" in Article 33 of the Panamanian Constitution should be duly interpreted, in order to comply with the obligation assumed by the Republic of Panama to adapt the provisions of its legislation to those of the Convention.
5. To recommend that the rule contained in Article 43 of the Panamanian Constitution that permits ex post facto laws for reasons of "public order" or "social interest", should be amended and/or interpreted, pursuant to Article 9 of the American Convention, to the effect that "no one

shall be convicted of any act or omission that did not constitute a criminal offence, under the applicable law, at the time it was committed."
6. To forward this report to the State, which shall not be authorized to publish it, granting the State a period of two months to adopt the above recommendations. The period shall commence from the day on which the report is transmitted.
7. To inform the petitioner of the adoption of an Article 50 report in this case.

12. On December 10, 1997, the State rejected the Commission's report, alleging "legal reasons and ... [of domestic law that impede it] from executing the recommendations of the honourable Inter-American Commission on Human Rights."

13. On January 14, 1998, the Commission, in the minutes of a conference telephone call, decided to refer the case to the Court.

IV. PROCEEDING BEFORE THE COURT

14. On January 16, 1998, the Commission presented the application to the Court. The Commission appointed Carlos Ayala-Corao and Hélio Bicudo as its Delegates before this Court, Jorge E. Taiana and Manuel Velasco-Clark as its Advisors, and Minerva Gómez, Ariel Dulitzky, Viviana Kristicevic and Marcela Matamoros as their assistants. In a note received by the Secretariat of the Court (hereinafter the “Secretariat”) on June 18, 1998, Marcela Matamoros advised that she was withdrawing from the instant case.

15. On January 28, 1998, once the President of the Court (hereinafter the “President") had made a preliminary examination of the application, the Secretariat notified it to the State, and informed it of the time limits for replying to it, opposing preliminary objections and appointing its representatives. Moreover, the State was invited to name a Judge ad hoc.

16. On February 20, 1998, Panama appointed Rolando Adolfo Reyna-Rodriguez as the Judge ad hoc.

17. On February 27, 1998, the State appointed Carlos Vargas-Pizarro as its Agent.

18. On April 17, 1998, after having requested two extensions to the period for presenting preliminary objections, the State filed four preliminary objections.

19. On May 14, 1998 the State requested an extension of one month to submit its reply to the application. On May 18, 1998, the Secretariat, in observance of instructions issued by the President, informed the State that the extension had been granted.

20. On May 20, 1998 the Commission presented its observations to the preliminary objections presented by Panama.

21. On June 29, 1998, the State submitted its reply to the application. It thereby expressed that it was respectful of human rights and that it had not invoked either public order, or social interest as means to suppress, denature or diminish in their real content the rights established in

the Convention. Similarly, it indicated that both, the content, and the application of Law 25 were proportionate to the damage being caused to the organisation of social life in Panama, and to the democratic institutions of the country. It also indicated that the violation of rights alleged by the petitioners was not real. It added that Law 25 was passed in full consonance with the provisions of Articles 27, 30 and 32 of the Convention, and the precepts of the Court's jurisprudence. Lastly, it pointed out that all rules and requirements established by the Convention were complied with in the internal proceedings interposed by the petitioners; that it was proven that the actions carried out were consistent with the law, international law and the Convention, and that international liability attributable to Panama had not been proven.

In its reply, the State requested the Court to declare that it was not liable for the dismissal of the 270 workers; that because of the failure to prove the violation by Panama of any rule of the Convention, it should not be obliged to pay any type of compensation, nor to reinstate the workers dismissed, especially in view of the fact that some of them had been reinstated, and termination pay and compensation was paid to others pursuant to the law; that it be allowed to present further evidence, and that the plaintiff be ordered to pay legal fees and expenditures incurred.

22. On July 7, 1998, the Secretariat requested the Commission to deliver, within the shortest possible time, a description of the purpose of the deposition by the witnesses proposed by the Commission, since such information was not included in the application.

23. On July 14, 1998, the Commission informed the Court that it felt that the performance of other actions pertinent to the written procedure was of the utmost importance, to which effect it requested the granting of an additional two months to submit the reply.

24. On July 31, 1998, the Secretariat informed the Commission and the State that, pursuant to Article 38 of the Rules of Procedure, the President granted the former a term of two months for the submission of the reply and that, after the receipt of said brief, it would transmit it to the latter in order that it, within the same time frame, submit the answer to the reply.

25. On August 31, 1998, the Commission submitted the description of the objective of the statement by the witnesses offered in its application.

26. On September 30, 1998, the Commission submitted the brief with the reply.

27. On October 29, 1998, the Secretariat, pursuant to instructions issued by the President, requested the Secretary General of the Organization of American States (hereinafter the "OAS"), to furnish it with any information that would be available on any notification received from the State between November 20 and December 31, 1990, concerning the suspension of guarantees of the Convention, the provisions suspended, the reasons for the suspension, and the date of termination of such suspension.

28. On November 27, 1998, the State requested an extension of one month to submit its answer to the reply. On December 2, 1998, pursuant to instructions issued by the President, the Secretariat informed the State that the extension had been granted.

29. On December 15, 1998, the Secretariat asked the Assistant Secretary for Legal Affairs of the OAS, Mr. Enrique Lagos, to make any arrangements possible within his sphere of competence to facilitate access by the Court to the information requested from the Secretary General of the OAS on October 29, 1998.

30. On January 7, 1999, in response to the note sent by the Secretariat to the Assistant Secretary for Legal Affairs of the OAS on December 15, 1998, Mr. Jean-Michel Arrighi, Director of the International Law Department of the OAS, sent a letter to the Secretariat informing that no such notification had been received or recorded by that Department concerning the suspension of guarantees of the Convention by the State.

31. On January 8, 1999, the State presented its response brief.

32. On January 19, 1999, Panama appointed Mr. Jorge Federico Lee as alternate Agent.

33. On January 19, 1999, Mr. Rolando Adolfo Reyna-Rodríguez, in his capacity as Judge ad hoc in the case, informed the Court that "he was indeed somewhat involved in the JORGE A. MARTÍNEZ vs. INSTITUTO DE RECURSOS HIDRÁULICOS Y ELECTRIFICACIÓN case, which he rejected for lack of jurisdiction, without hearing the case." He further informed that "he would undertake a position relative to International Maritime Affairs of the Republic of Panama." Lastly, he requested the Court to "determine whether the facts previously pointed out constituted grounds for impediment."

34. On January 19, 1999, pursuant to instructions by the Tribunal, the Secretariat requested Mr. Rolando Adolfo Reyna-Rodríguez to inform on "the characteristics and objective of the proceedings identified as Jorge A. Martínez vs. Instituto de Recursos Hidráulicos y Electrificación, where he had some involvement as President of the N° 4 Conciliation and Decision Board," and on the "position, within the structure of the State of Panama, of the 'International Maritime Affairs office or section.'"

35. On January 22, 1999, Mr. Rolando Adolfo Reyna-Rodríguez, in response to the request made on the 19th of the same month and year, informed the Secretariat that the proceedings in which he participated as President of the N° 4 Conciliation and Decision Board, were based on a labour action brought by several workers dismissed under Law 25, which he rejected for lack of jurisdiction. He further informed that the "maritime authority in Panama is an autonomous institution devoted to all matters relative to merchant vessels."

36. On that same day, the Court issued an Order whereby it decided:

1. To declare that Mr. Rolando Adolfo Reyna-Rodríguez may not undertake the position of Judge ad hoc in the instant case.
2. To continue hearing it as currently constituted.
3. To notify this decision to Mr. Rolando Adolfo Reyna-Rodríguez.

37. On January 26, 1999, the Ombudsman of Panama, Mr. Italo Isaac Antinori-Bolaños, presented a brief in his capacity as amicus curiae.

38. On January 27, 1999, the Court held a public hearing on preliminary objections at the headquarters of the Supreme Court of the Republic of Costa Rica.

39. On November 18, 1999, the Court entered the Judgment on preliminary objections. In such Judgment the Tribunal dismissed the preliminary objections filed by the State.

40. Through an Order of the President, of December 7, 1999, the Inter-American Commission and the State were convoked to a public hearing on the merits, which would be held at the Court's headquarters on January 26, 2000, with the purpose of receiving the statements of the witnesses proposed by the Commission, and of the witnesses and expert witnesses offered by the State. The parties were furthered informed that they could present their final oral arguments on the merits immediately after the receipt of said evidence.

41. On December 15, 1999, pursuant to instructions from its President, the Secretariat informed the State that the evidence mentioned in item IX.d (evidence of reports) of the reply to the application, through which the Court was requested to instruct the private companies Cable & Wireless Panama, S.A., and Panama Ports Company, S.A., to prepare reports relative to the case, should be offered to the Tribunal by the State, in order that the former decide whether or not to incorporate it with the rest of the evidence. On January 26, 2000, the State sent a note signed by Mr. Jorge Nicolau, Administrative and Product Development Director of Cable & Wireless Panama, S.A., whereby it informed about the workers that said company had rehired.

42. On January 10, 2000, the State submitted the list of witnesses and expert witnesses who would appear at the public hearing on the merits. By Order of the Court of January 25, 2000, Mr. Feliciano Olmedo-Sanjur was summoned to render his statement as expert witness.

43. On January 13, 2000, the Commission submitted the list of witnesses who would depose at the public hearing on the merits, and informed that Mr. Humberto Ricord, proposed by it and convoked by the Court as a witness, would appear as an expert witness. On January 14, 2000, pursuant to instructions from the President, the Secretariat requested the State to inform whether it had any objection as to the change in the capacity in which said person would appear. On January 17, 2000, Panama expressed that it felt that the change requested by the Commission was inconvenient. On January 19, 2000, the Commission submitted a brief indicating that the purpose of the deposition of Mr. Humberto Ricord, as an expert witness specialising in labour and constitutional law and as university professor, was to clarify the facts of the complaint, and attached his resume. By Order of the Court of January 24, 2000, Mr. Humberto Ricord was convoked to render his deposition as an expert witness.

44. On January 25, 2000, the State submitted a note whereby it intended to challenge the competence of the President and requested the postponement of the public hearing on the merits. On that same day, by an Order adopted unanimously, the Court rejected this suggestion and the request to postpone the hearing.

45. On the following day, January 26, 2000, the President opened the public hearing, during which the Court received the declarations of the witnesses and expert witnesses proposed by the Inter-American Commission and the State.

There appeared before the Court:

For the Inter-American Commission on Human Rights:

Hélio Bicudo, Delegate;
Carlos Ayala-Corao, Delegate;
Manuel Velasco Clark, attorney-at-law;
Cristina Silva, assistant attorney-at-law;
Viviana Kristicevic, assistant;
Minerva Gómez, assistant; and
María Claudia Pulido, assistant.

For the State of Panama:

Carlos Vargas Pizarro, Agent;
Jorge Federico Lee, alternate Agent;
Virginia Burgoa, Ambassador of Panama to Costa Rica;
Luis Enrique Martínez, Minister Counsellor of the Embassy of Panama in Costa Rica;
Juan Cristóbal Zúñiga, Director, Legal Department of the Ministry of Foreign Affairs;
Iana Quadri-de-Ballard, Deputy Director, Legal Department of the Ministry of Foreign Affairs;
Juan Antonio Tejado-Mora, advisor;
Juan Antonio Tejado-Espino, advisor;
María Alejandra Eisenmann, General Secretary, Ministry of Foreign Affairs;
Harold Maduro, assistant; and
Ivonne Valdés, assistant.

Witnesses proposed by the Inter-American Commission:

Ramón Lima;
José Mauad;
Rogelio Cruz-Ríos;
Nilsa Chung-de-González;
Manrique Mejía; and
Luis Bautista.

Expert witness proposed by the Inter-American Comission:

Humberto Ricord.

Witnesses proposed by the State of Panama:

Guillermo Endara-Galimany;
Guillermo Ford-Boyd;
Carlos Lucas-López;
Jorge De-la-Guardia; and
Marta De-León-de-Bermúdez.

Expert witnesses proposed by the State of Panama:

Maruja Bravo-Dutary; and
Feliciano Olmedo-Sanjur.

46. On April 24, 2000 the Labour Advice Centre of Peru, the Economic and Social Rights Centre, the Legal and Social Studies Centre, and the Colombian Law Professionals Commission submitted a brief in their capacity as amici curiae.

47. On June 6, 2000, pursuant to instructions from the President, the Secretariat informed the Commission and the State that they were to submit the final written arguments on the merits of the case no later than June 11 of the same year. On July 4 next, the State requested a 15-day extension. The next day the Secretariat informed the parties that the President had granted the extension requested up to July 28, 2000.

48. On July 17, 2000, Mr. Jacinto González-Rodríguez submitted a brief in his capacity as amicus curiae.

49. On July 28, 2000, the Commission submitted its final written arguments.

50. On August 1, 2000, Panama submitted its final written arguments. Although they were submitted out of schedule, the Court admitted them based on reasonableness and timeliness criteria, and in consideration of the fact that such delay did not harm the balance that the Tribunal must maintain between the protection of human rights and legal security, and procedural equitableness. Thus, on August 10, 2000, pursuant to instructions from the President, the Secretariat so informed the State.

51. In the same note of August 10, 2000, pursuant to instructions from the President and on the basis of powers conferred as per Article 44 of the Rules of Procedure, the Secretariat requested the State, as evidence to broaden the knowledge on the matter: the file of the proceedings of the action brought by the Cabinet Council against the workers dismissed pursuant to Law 25 of December 1990; the file of the proceedings of the Ninth Prosecutorial Agency and the Seventh Penal Circuit Court, Judicial Circuit of Panama, for the crime of "sedition" against the internal personality of the State, a crime defined in Chapter II, Section IX, Book II of the Panamanian Penal Code, which were conducted against Eduardo Herrera-Hassán and others; the minutes of the deliberations of the Cabinet Council for the month of December 1990, and those held about the discussion on Resolution N° 10 of January 23, 1991; Resolution N° 10 of January 23, 1991, of the Cabinet Council; the judicial files of the actions brought by Eduardo Gaslín-Caballero and others, Miguel Ángel Osorio and others, Yadira Delgado and others, Luis Anaya and others, Andrés Alemán and others, and Ivanor Alonso and others, which gave rise to the

judgments of the Third Administrative Conflicts Section of the Supreme Court; the judicial file relative to the unconstitutionality action against Law 25 brought by Isaac Rodríguez, and the administrative measures taken by the Ministry of Public Works, the Renewable Natural Resources Institute, the Ministry of Education, the National Telecommunications Institute, the National Water and Sewerage Institute, and the Water Resources and Electric Power Institute, relative to the dismissal of each one of the 270 workers.

52. On September 8, 2000, the Agent of the State sent the President a note in which he expressed "his complete trust in the proceedings conducted by the Court," as well as his "full belief in the impartiality, independence and honourableness of both, the Illustrious President, and all the other judges."

53. On November 22, 2000, the State presented part of the documentation requested by the Court on August 10, 2000, as evidence to broaden the knowledge on the matter.

54. On November 30, 2000, pursuant to instructions from the full Court and as per Article 44 of the Rules of Procedure, the Secretariat requested the Commission to submit, no later than December 13, 2000, the documentary evidence that accredited the request for the payment of costs and expenses contained in its application, as well as the corresponding arguments. On December 12, 2000, the Commission requested an extension of one month for the submission of said information. On the 13th of the same month and year, the Secretariat informed the Commission that the President had granted it until January 8, 2001, as a final extension.

55. On December 22, 2000, the State submitted a brief whereby the Minister of the Interior, Ms. Ivonne Young, informed that there was no record, in the files of the Cabinet Council, of the proceedings conducted against the workers dismissed pursuant to Law 25, nor minutes of the deliberations of the Cabinet Council for December 1990, or the deliberations developed about Resolution N° 10 of January 23, 1991.

56. On January 8, 2001, the Commission submitted the documentary evidence that, in its opinion, accredited the request for the payment of costs and expenses contained in its application, as well as the corresponding arguments. The next day, the Secretariat acknowledged receipt thereof and, pursuant to Instructions from the President, granted the State until January 24, 2001, for the submission of its observations. On January 12, 2001, the Commission sent, via courier, the appendices missing in the January 8, 2000, brief, which were forwarded on that same day to the State. On January 24, 2001, the State submitted its observations on the Commission's brief.

V. THE EVIDENCE

A) DOCUMENTARY EVIDENCE

57. Together with the application brief (supra paragraphs 1, 2 and 3), the Commission submitted a copy of the 50 documents contained in the 26 appendices. [FN1]

[FN1] cfr. appendix I, note N° 2328-DE of November 12, 1996, of the Executive Director of the National Water and Sewerage Institute addressed to the former IDAAN employees dismissed pursuant to Law 25; appendix II, memorandum N° 554-AL of November 21, 1996, of the Director of the Legal Affairs Department, addressed to the Executive Director of Administrative Services of the same company; appendix III, a certification of August 12, 1991 of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Evangelista Granja; two certifications of August 13, 1991, of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Antonio González and Zilka Aimett Loy-Matos; a certification of August 20, 1991, of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Ernesto Romero; two certification requests of August 12 and 13, 1991, addressed to the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, submitted by Zilka Aimett Loy-Matos, and Antonio González; appendix IV, notes of December 10, 11 and 13, 1990, of the Director General of the Water Resources and Electric Power Institute addressed to Messrs. Gustavo Ortiz, Cristóbal Segundo and Evangelista Granja; appendix V, note SC-S7-032-92 of February 12, 1992, of the Water Resources and Electric Power Institute Workers' Union addressed to the Executive Director for Administration; certification of illness N° 284307 issued by Dr. Carlos Sellhorn concerning Cristóbal Segundo; certification of vacation of the Water Resources and Electric Power Institute concerning Gustavo Alexis Ortiz; certification of April 25, 1991, of the Water Resources and Electric Power Institute concerning absence from work of Evangelista Granja; appendix VI, note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama, addressed to the Minister of Foreign Affairs of Panama; appendix VII, the Constitution of the Republic of Panama adopted on April 24, 1983; appendix VIII, Law 8, of February 25, 1975; appendix IX, re-consideration remedy, with a subsidiary appeal, filed on December 17, 1990, by the Defence and Labour Secretary of the SITIRHE; appendix X, certification issued by the Secretariat a.i. of the First Labour Court of the First Section on August 30, 1993; certification issued by the Secretariat of the Second Labour Court of the First Section on August 31, 1993; certification issued by the Secretariat of the Third Labour Court of the First Section on August 31, 1993; certification issued by the Fourth Labour Judge of the First Section on August 31, 1993; appendix XI, list of the labour union representatives of the IRHE Workers' Union dismissed pursuant to Law 25; appendix XII, note N° DPG-2729-91 of November 8, 1991, sent by the Attorney General of the Nation of Panama to the President of the Labour and Social Well-being Committee of the Legislative Assembly; appendix XIII, note of the National Bar Association of Panama of December 24, 1993, addressed to Messrs. Manrique Mejía, Ladislao Caraballo, Raúl González and Rolando Miller; Report of the Labour Law Committee of the National Bar Association sent on November 22, 1993, to the President of the National Bar Association; appendix XIV, draft of Law 25; appendix XV, reply to the full-jurisdiction action brought before the Third Section of the Supreme Court on March 9, 1992, by Vicente Archibold-Blake in representation of Miguel Ángel Osorio et al.; judgment of June 21, 1993, of the Third Administrative Conflicts Section of the Supreme Court in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Ángel Osorio, and the action brought by Vicente Archibold-Blake in representation of Rodolfo A. Wynter; appendix XVI, medical certification issued on July 26, 1990, by the Professional Risk Neurosurgeon of the Social Security Bureau concerning the situation of Ms. Dirie Lauchú; certification of October 19, 1989, concerning the pregnancy and request for compensation of Ms. Dirie Lauchú; a document of the Maternal and Childhood Programme of the Social Security Bureau concerning Ms. Dirie

Lauchú; medical certification of Dr. Víctor Juilo (SIC) P. concerning Ms. Dirie Lauchú; a document of interdepartmental consultation of the Medical Compensation Processing Department concerning Ms. Dirie Lauchú; appendix XVII, "Preliminary report prepared by the Dismissed Workers' Committee concerning the obligations pending payment to the workers dismissed pursuant to Law 25 of December 14, 1990, in the Republic of Panama; appendix XVIII, a list entitled "Personnel Dismissed pursuant to Law 25;" a list entitled "National Water and Sewerage Institute. Reinstatements. I Stage;" a list entitled "appointment of personnel dismissed through Law 25," pertaining to the IRHE; appendix XIX, Report of the Ministry of Foreign Affairs entitled "Reservations to clarify Report N° 37/97 (Case 11.325) issued by the Inter-American Commission on Human Rights of the Organization of American States (OAS)," addressed on December 10, 1997, to the Ambassador of Panama and Permanent Representative to the OAS; appendix XX, a story of the El Universal de Panama newspaper entitled "Pérez B. shall abide by the OAS judgment on Law 25," published on January 2, 1998; appendix XXI, a letter of the Panamanian Human Rights Committee of January 12, 1998, addressed to the Inter-American Commission on Human Rights; a letter of the Workers' Union of the Water Resources and Electric Power Institute addressed on January 5, 1998, to the Inter-American Commission on Human Rights; a letter of the Workers' Union of the Water Resources and Electric Power Institute of December 29, 1997, addressed at the members of the Inter-American Commission on Human Rights; appendix XXII, Resolution of the Labour Union Freedom Committee in Case N° 1569 "Complaints against the Government of Panama submitted by the International Confederation of Free Labour Union Organisations (CIOSL), the Workers' Union of the Water Resources and Electric Power Institute (SITIRHE) and the Workers' Union of the National Telecommunications Institute (SITINTEL)"; appendix XXIII, a list of the workers dismissed pursuant to Law 25 who had not been reinstated at the time of submission of the appendices to the application; appendix XXIV, judgment of the Full Supreme Court of Panama of May 23, 1991, concerning the four unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; the opinion issued March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; unconstitutionality action brought by Isaac Rodríguez; appendix XXV, jurisprudence of the Full Supreme Court concerning Article 2564 of the Judicial Code of the Republic of Panama; and appendix XXVI, notarial certification of February 28, 1991, issued by the Twelfth Notary of the Circuit of the Republic of Panama.

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58. At the time of submission of its reply to the application (supra, paragraph 21), the State attached a copy of 272 documents contained in 24 appendices. [FN2]

[FN2] cfr. appendix I, two copies of an article in the La Nación newspaper of Costa Rica entitled "Pentagon says Panamanian crisis worsens," without a reference; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Panamanian army dissolved," and "Forts in outlying areas surrender," published on December 24, 1989; two copies of the articles of the La

Nación newspaper of Costa Rica entitled "USA controls Panama City," and "$1 million for capture of the general," published December 21, 1989; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Many of us Panamanians will die," and "The Canal takes a break," published December 21, 1989; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Bush lifts economic sanctions," "Endara to announce cabinet," and "Endara sad for deaths," published December 21, 1989; two copies of the articles of the La Nación newspaper of Costa Rica, entitled "Asylum for Noriega in Nunciature," and "Joint visits started," without a reference; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Three pro Noriega leaders turn themselves in," "Ticos overcome by despair," and "US used 'invisible' bombing," without a reference; two copies of the articles of the La Nación newspaper of Costa Rica entitled "The capture of Veraguas," "Bridge of the Americas open," and "Nobody gets through here!," published December 24, 1989; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Noriega cheated the CIA, says journal," "US troups 'comb' the downtown area," and "Neighbourhood residents organise surveillance," published December 24, 1989; two copies of the articles of the La Nación newspaper of Costa Rica entitled "Lawless capital," and "Spanish photographer dies," published December 22, 1989; a document entitled "Legal nature of Law 25 of December 1990," without a date; an article of the La Prensa newspaper of Panama entitled "Former IRHE workers would submit evidence to the OAS," published May 13, 1998; an article of the La Prensa newspaper of Panama entitled "Members of the OAS meet with dismissed workers," published May 10, 1998; an article of the El Universal newspaper of Panama entitled "Former IRHE workers request governmental attention to their claims," published March 28, 1998; an article of the El Universal newspaper of Panama entitled "Workers accuse the Foreign Affairs Ministry of submission of false documentation to the ICHR," without a reference; appendix II, heading of an article of the La Nación newspaper of Costa Rica entitled "Panama rebellion crushed," published December 6, 1990; an article of the La Nación newspaper of Costa Rica entitled "'Marines' crushed rebellion in Panama," published December 6, 1990; an article of the La Nación newspaper of Costa Rica entitled "Violent uprisings in Panama," without a reference; an article of the La Nación newspaper of Costa Rica entitled "The police clears Panamanian Congress building," published December 14, 1990; an article of the La Nación newspaper of Costa Rica entitled "Mass dismissals in Panama contested," published December 13, 1990; an article of the La Nación newspaper of Costa Rica entitled "Panama goes back to normal," published December 7, 1990; and article of the La Nación newspaper of Costa Rica entitled "Panama unable to overcome its troubles," published December 20, 1990; an article of the La Nación newspaper of Costa Rica entitled "They say there was no call to rebellion in Panama," without a reference; articles of the El Panamá América newspaper entitled "Mass dismissal of anti government personnel," and "Another coup possible: Rogelio Cruz," published December 7, 1990; two copies of the El Panamá América newspaper entitled "Colonel Herrera escaped," and "Several thousand workers marched down Central Avenue," published December 5, 1990; an article of the El Panamá América newspaper entitled "Coup supporters: criminal and cold blooded," published December 11, 1990; articles of the El Panamá América newspaper entitled "Dismissal law draft passed in its first debate," and "Three hundred IRHE workers dismissed," published December 12, 1990; articles of the El Panamá América newspaper entitled "Psychological war to raise tension," and "IRHE strike unsuccessful and march announced for today," published December 13, 1990; articles of the El Panamá América newspaper entitled "Yesterday's riots controlled by police," "IRHE situation getting back to normal: De-la-Guardia," and "Dismissal law draft for third debate today," published

December 14, 1990; articles of the El Panamá América newspaper entitled "Military coup left two dead," and "Virtual failure of the strike," published December 6, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Workers ratify national strtike and a march," published December 3, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Workerks march to take place today," published December 4, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Thousands of workers marched and reiterated strike today," published December 5, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Strike illegal: minister Rosas," published December 5, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Law would ignore public workers jurisdiction," published December 7, 1990, which contains the draft of Law 25 sent to the Legislative Assembly; three copies of the “La Estrella de Panamá” newspaper entitled "Isaac Rodríguez reaffirmed that workers' unions are not bound," published December 8, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Draft bill sent by Endara typical of a dictatorship," published December 8, 1990; two copies of a cartoon of the “La Estrella de Panamá” newspaper published December 8, 1990; an article of the “La Estrella de Panamá” newspaper entitled "No official serving of notice yet to workers' union leaders," published December 10, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Endara's attitude against reconciliation," published December 16, 1990; three copies of the article of the “La Estrella de Panamá” newspaper entitled "Panamanian democracy being demolished," published December 16, 1990; two copies of the articles of the “La Estrella de Panamá” newspaper entitled "Colonel Herrera calls for reconciliation to prevent blood bath," and "Labour union representative Rodríguez proposes leaving his position and having the workers reinstated," published December 17, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Serious attack against freedom in Panama reported," published December 17, 1990; three copies of the articles of the “La Estrella de Panamá” newspaper entitled "Assembly asked to reconsider," published December 18, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Presidential advisors are the culprits," published December 19, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "World-level sanctions against Panama could be imposed," published December 21, 1990; two copies of article of the “La Estrella de Panamá” newspaper entitled "March scheduled for today suspended," published December 24, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Labour union leaders suspend hunger strike and accept mediation," published December 25, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Draft bill on dismissals to first debate," published December 12, 1990; an article of the “La Estrella de Panamá” newspaper entitled "…disagreement between the government and labour unions," published December 13, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Violence between workers and the police. 13 wounded," published December 14, 1990; articles of the “La Estrella de Panamá” newspaper entitled "Passing of law leads to serious disturbances," and "Labour unions announce march for Monday," published December 15, 1990; articles of the La Prensa newspaper of Panama, entitled "Public employees say government measures are anti democratic," and "Strike at IRHE centres announced by Isaac Rodríguez," published December 12, 1990; an article of the La Prensa newspaper of Panama entitled "No co-ordination possible with a non-representative leadership," published December 13, 1990; articles of the La Prensa newspaper of Panama entitled "Sense of authority not clear in the society: Márquez," and "Pope encourages Panamanians and calls for a fairer society," published December 14, 1990; articles of the La Prensa newspaper of Panama entitled "Herrera takes over Central Fort," and "Public

employees who support strike could be dismissed," published December 5, 1990; articles of the La Prensa newspaper of Panama entitled "Coup thwarted," and "Workers deny ties with coup attempt," published December 6, 1990; two copies of articles of the La Prensa newspaper of Panama entitled "Public employees who took part in strike of the 5th to be dismissed," published December 7, 1990; an article of the La Prensa newspaper of Panama entitled "Bethancourt Doctrine implementation best remedy against dictatorships," published December 8, 1990; an article of the La Prensa newspaper of Panama entitled "Isaac Rodríguez met yesterday with Cruz Loaiza and Carlos Barés," published December 9, 1990; two copies of the article of the La Prensa newspaper of Panama entitled "Attorney General Cruz to interrogate Eduardo Herrera tomorrow," published December 10, 1990; two copies of the article of the La Prensa newspaper of Panama entitled "Moreno alleges involvement of police Directorate in coup," published December 11, 1990; appendix III, a segment of the 1989-1990 Annual Report of the Inter-American Commission on Human Rights concerning the State of Panama; appendix IV, a segment of the 1990-1991 Annual Report of the Inter-American Commission on Human Rights; appendix V, Law 25 draft bill; appendix VI, an article of the El Panamá América newspaper entitled "Draft to punish coup perpetrators," published December 10, 1990; an article of the El Panamá América newspaper entitled "Three coup participants apply for asylum," published December 9, 1990; an article of the El Panamá América newspaper entitled "US troops acted unilaterally," published December 8, 1990; an article of the El Panamá América newspaper entitled "Special commission to investigate coup," published December 8, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Co-ordinating organisation announces protest outside US Embassy and a march," published December 12, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Dismissals draft bill goes to first debate," published December 12, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Serious disagreement between the government and labour unions," published December 13, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Violence between workers and the police. 13 wounded," published December 14, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Dismissals law passed yesterday at second debate," published December 14, 1990; two copies of the article of the “La Estrella de Panamá” newspaper entitled "Law approval leads to serious turmoil." Published December 15, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Events announced for the 20th, and a march for the 24th," without a reference; appendix VII, minutes of the Legislative Assembly of December 13, 1990 relative to the discussion on Law 25. Appendix VIII, judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; opinion of March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; unconstitutionality action brought December 21, 1990, before the Full Supreme Court of Panama by Vicente Archibold-Blake in representation of Isaac Rodríguez; appendix IX, warning of unconstitutionality of Law 25 of December 14, 1990, filed May 7, 1991, before the Third Administrative Conflicts Section of the Supreme Court of Panama, by Carlos del Cid in representation of Eduardo Cobos; judgment of the Full Supreme Court of January 13, 1994, relative to the constitutional guarantee protection remedy invoked by the

IRHE Workers Union; judgment of the Full Supreme Court of March 12, 1991, in connection with the constitutional guarantee protection remedies filed by Marisina Ubillus-D., Jaime Camarena, Suldee R. de-Silva, Rolando Jiménez, Cristian Eliécer Pérez, Giovani Prado-S., Santiago Alvarado, Antonia del-Valle, Natalio Murillo, Teresa de-Sierra, Jorge A. Martínez, Daniel Jiménez, Sandra C. de-Romero, Alba Berrío, Pedro Atencio-M., Domingo De-Gracia, Andrés A. Alemán, Sergio Ochoa-Castro, Estebana Nash, Ricardo Rubén-Ríos, José Inés Blanco-O., Rodolfo Vence-Reid, Luis Anaya, Manuel Corro, Samuel A. Beluche, Víctor Bock-E., Miguel Bermúdez, Manuel J. Herrera-S., Daniel S. Trejos, Víctor M. Buenaño, Sonia de Smith, Jaime Batista, Esteban Perea, Raúl González-R., Magaly de Herrera, Marcos Bracamaya, Félix Herrera, Zilka Lou, Luis Arturo Sánchez, José Santamaría-S., Cayetano Cruz, Rubén D. Barraza, Rafael Tait-Yepes, Luis Alberto Tuñón, Alexis Garibaldi-B., Luis A. Batista-J., Raúl Murrieta-R., Evelio Otero-Rodríguez, and Ricardo A. Trujillo, against the Secretariat and the Co-ordinating organisation of the N° 5 Conciliation and Decision Board; full-jurisdiction administrative conflicts action brought before the Third Administrative Conflicts Section by Ricardo Stevens, in representation of Ricardo Gregorio Rivera; judgment of the Third Administrative Conflicts Section of September 24, 1991, in connection with the appeal filed by Ricardo Stevens, in representation of Ricardo Gregorio Rivera, against the proceedings of May 29, 1991; notice N° 637 of September 25, 1991, whereby it is instructed to notify the previous judgment of the Third Administrative Conflicts Section; note N° 838 of October 3, 1991, of the Secretariat of the Third Section of the Supreme Court addressed to the General Manager of the INTEL; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada, Cayetano Cruz, and Jaime Camarena; judgment of the Supreme Court of January 13, 1994, relative to the constitutional guarantee protection remedy filed by Roberto Will-Guerrera, in representation of Constantino Núñez-López, Secretary General and Representative of the Workers Union of the Water Resources and Electric Power Institute; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, relative to the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José Kelly-S., Gilberto Antonio Leguisamo, Dirie Lauchú-Ponce, Perlina Lobán-de-Andrade, Eric Lara-Morán, Darién Linares, Zilka Lou-M.-, Dennis Lasso-E., Orán Darío Miranda-Gutiérrez, Luis Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio Ornano-C., Gustavo Alexis Ortiz-G., Luis Osorio, and Omar Oses; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 23, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Yadira Delgado, Luis Alfonso Estribí, Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Giuseppit-Pérez, Rigoberto Isaacs-Rozzi, Marisol Landau, Nodier Méndez, Lidia de-Marín, Rolando Antonio Miller-Byrnes, Nermes Antonio Marín, and Carlos Mendoza;

judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; notice N° 710 of August 2, 1993, whereby it is ordered to notify the previous judgment of the Third Administrative Conflicts Section; notice N° 817 of August 10, 1993 of the Secretariat of the Third Section of the Supreme Court addressed to the Director General of the National Telecommunications Institute; appendix X, judgment of the Third Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the full-jurisdiction administrative conflicts actions brought by the attorney Vicente Archibold-Blake, in representation of Rodolfo A. Wynter, Jaime Salinas-M., Giovanni E. Prado-S., Tomás Pretelt, Rubén Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo Ríos, Alidio Rivera, Sandra de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo Ríos-B., Luis Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Regino Saldaña, Teresa R. de-Sierra, Manuel Valencia, Christian Eliécer Pérez, Rodolfo Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristóbal Segundo Jr., Elvira A. Solórzano, Enrique Sellhom-M., Rodolfo A. Wynter, Ricardo A. Trujillo, Luis Olmedo-Sosa, Sonia de-Smith, and Damiel Trejos; appendix XI, judgment of the Third Administrative Conflicts Section of the Supreme Court of June 29, 1993, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés Alemán-L., Santiago Alvarado, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén Barraza, Luis Bernuil-Z., Alba Oritela Berrio, José Inés Blanco-Obando, Jaime Batista-M., Miguel Bermúdez-T., Andrés Bermúdez, Marcos Bracamaya-Jaén, Mario Julio Brito-M., Víctor Bock-E., Víctor Buenaño-H., Minerva de-Campbell, Ladislao Caraballo-R., Manuel Corro-C., Reinaldo Cerrud, Juanerje Carrillo-Batista, Domingo De-Gracia-C., Roberto Escobar, César Espino, Jaime Espinosa-D., Jorge Antonio Fermán-M., Rita Guerra, Rolando A. Gómez-C., Esteban Perea, and Pablo Prado-Domínguez; appendix XII, note CSJ-SNG-354-94 of October 3, 1994 of the Vice President Justice in charge of the Presidency of the Supreme Court of Panama addressed to the Minister of Foreign Affairs of Panama; appendix XIII, Judicial Code of the Republic of Panama, ninth edition, Muzrachi & Pujol, S.A. publishers, 1997; appendix XIV, two copies of the table entitled “Summary Table of Claims Filed by the Workers Dismissed by Law 25;” table entitled “Status of the Workers Dismissed by Law 25 of December 14, 1990. INTEL, S.A.;” table entitled “Institutie of Water Resources and Electric Power. Personnel Management Department. Appointments of Law N° 25;” two copies of the table entitled “Institutie of Water Resources and Electric Power. Personnel Management Department. Appointments of Law N° 25. Pending;” table entitled “Employees Dismissed by Law N° 25;” table entitled “Institute of Water Resources and Electric Power. Personnel Management Department. Law 25 personnel appointments;” two certifications of May 20, 1992, issued by the Secretariat of the Third Section of the Supreme Court; minutes of March 3, 1995 with respect to the taking of office of Mr. Rafael Tait-Yepes at the IRHE; personnel resolution N° 125-95 of March 20, 1995 relative to the appointment of Jorge Martínez at the IRHE; personnel resolution N° 153-95 of April 5, 1995 relative to the appointment of Sandra Romero, Ilka de-Sánchez, Dorindo Ríos and Roberto Escobar at the IRHE; personnel resolution N° 137-95 of March 27, 1995, relative to the appointment of Pablo Prado at the IRHE; minutes of March 27, 1995, concerning the taking of office of Mr. Pablo Prado at the IRHE; minutes of March 20, 1995 concerning the taking of office of Mr. Jorge Martínez at the IRHE; minutes of April 3,

1995 concerning the taking of office of Mr. Dorindo Ríos at the IRHE; minutes of March 3, 1995, concerning the taking of office of Mr. Rafael Tait-Yepes at the IRHE; official note AR-95-15 of May 16, 1995, of the INTEL addressed to "ILO Technical Co-operation," of the Ministry of Labour and Social Well Being; minutes of December 15, 1990, concerning the taking of office of Mr. Arístides Barba at the Ministry of Public Works; minutes of January 2, 1996, concerning the taking of office of Mr. Francisco Chacón at the Ministry of Public Works; minutes of February 6, 1995, concerning the taking of office of Mr. Leonidas Baena at the Ministry of Public Works; resolution N° DG/AL-102 of August 14, 1996 of the National Culture Institute; minutes of July 4, 1995, concerning the taking of office of Mr. César Antonio Aparicio at the National Port Authority; personnel orders of September 21, 1994, issued by the National Port Authority concerning the employees Ismael Campbell, Fernando Dimas Rosales, Luis Antonio Martínez, Jaime Legal, and Carlos Archibold; personnel orders of July 24, 1995, issued by the National Port Authority concerning Daniel Hearth, Tomás Morales and César Antonio Aparicio; personnel orders of September 21, 1994, issued by the National Port Authority concerning Gabino Young, Carlos Ernesto Henry, Maricela Rodríguez, Enrique Jiménez and Sergio Marín; personnel orders of July 19, 1994, issued by the National Port Authority concerning Miguel Ángel Martínez; minutes of October 7, 1994, concerning the taking of office at the National Port Authority of Fernando Dimos Rosales; minutes of January 17, 1994 concerning the taking of office of César Contreras at the National Renewable Natural Resources Institute; minutes of August 1, 1995 concerning the taking of office of Euribiades Marín at the National Renewable Natural Resources Institute; minutes of February 1, 1995, concerning the taking of office of Euribiades Marín at the National Renewable Natural Resources Institute; minutes of April 1, 1995, concerning the taking of office of Domingo Montenegro at the National Renewable Natural Resources Institute; minutes of February 1, 1995 concerning the taking of office of Domingo Montenegro at the National Renewable Natural Resources Institute; minutes of January 17, 1995 concerning the taking of office of Elías Ortega at the National Renewable Natural Resources Institute; personnel orders of September 22 and 20, 1994, of the INTEL, and minutes of October 14, 1994 concerning the taking of office of Carlos Kennedy; personnel orders of September 22, 1994, of the INTEL, and minutes of September 20, 1994, concerning the taking of office of Ivanor Alonso, Eduardo Cobos, Ricardo Giussepit, Alejandrina Gordon, Elvis Quintero, María de Sánchez, Santiago Torres, Ricardo Rivera, Orlando Camarena, Algis Calvo, Edgar de León, Jorge Murillo, Mireya de Rodríguez, Elberto Cobos, Antonio Núñez, Alfonso Chambers, Rolando Miller, Eleno Augusto García; personnel orders of September 20 and 22, 1994, of the INTEL, and minutes concerning the taking of office of September 20, 1994, of Jitus Henry; medical certificate issued July 26, 1990, by the Professional Risk Neurosurgeon of the Social Security Bureau, concerning the situation of Ms. Dirie Lauchú; certification of October 19, 1989, concerning the pregnancy and application for a subsidy, of Ms. Dirie Judith Lauchú-Ponce; document of the Maternal and Childhood Programme of the Social Security Bureau concerning Ms. Dirie Lauchú-Ponce; medical certificate of Dr. Víctor Juilo P., of May, 1992, concerning Ms. Dirie J. Lauchú; mutual consultation document of the Medical Benefits Processing Department, of January 21, 1991, concerning Ms. Dirie Lauchú; appendix XV, videos about the situation in Panama in December 1990; appendix XVI, photographs from videos of the coup d'état encouraged by colonel Eduardo Herrera-Hassán; appendix XVII organic law of the National Police, N° 18, of June 3, 1997; appendix XVIII, legislative resolution N° 2 of August 23, 1994; appendix XIX, decision of the Full Supreme Court of Panama of April 30, 1998, concerning the unconstitutionality action brought by Carlos Eugenio Carrillo, in

representation of Miguel Bush Ríos; appendix XX, Constitution of the Republic of Panama of 1972, as amended in 1978, 1983, 1993, and 1994; appendix XXI, Penal Code of the Republic of Panama, second edition, PUBLIPAN Legal Publications of Panama, S.A., 1997; appendix XXII, Labour Code of the Republic of Panama of 1972, second edition, Mizrachi & Pujol S.A. publishers, 1996; appendix XXIII, Law 5 of February 9, 1995; appendix XXIV, a story that appeared in the Momento magazine, May, 1992 edition, which includes the interview with First High Prosecutor of David, Chiriquí, Panama; and document of the petitioners of July 9, 1997.

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59. In its reply brief (supra para. 26), the Commission attached copies of 145 documents contained in 17 appendices. [FN3]

[FN3] cfr. Appendix I, Resolution of the Cabinet Council, N° 10, published in the Official Gazette of Panama N° 21.718 of February 4, 1991; appendix II, July 10, 1997, brief which contains the calculation of the payment of indemnity to Mr. Rolando Miller by the National Telecommunications Institute, which accounts for the September 17, 1973 to June 15, 1997, period; July 10, 1997 brief, which contains the calculation of the payment of indemnity to Mr. Francisco Segura by the National Telecommunications Institute, which accounts for the June 1, 1973 to June 15, 1997 period; appendix III, certification by the National Port Authority notified November 21, 1997, relative to the contributions of Mr. Ismael Campbell-D. to the Social Benefits Complementary Fund; certification of January 10, 1997, concerning the termination of employer-employee relations by mutual agreement between Mr. Ismael Campbell and the National Port Authority; certification of termination of employment by mutual agreement between Mr. Ismael Campbell and the National Port Authority, issued by the Head of the Personnel Department of said institution on January 10, 1997; work certificate of Mr. Ismael Campbell issued by the Management Director of the National Port Authority on January 10, 1997, whereby it is certified that he worked from October 7, 1994 to December 31, 1996; work certificate of Mr. Ismael Campbell issued by the Personnel Officer of the Port of Cristóbal of the National Port Authority of March 5, 1992, whereby it is certified that he worked from October 1, 1979 to December 19, 1990; personnel orders of Ismael Campbell at the National Port Authority issued September 21, 1994, the appointment being effective as of October 7, 1994; a certificate issued December 20, 1996, concerning the termination of the employer-employee relationship by mutual agreement between Carlos E. Henry and the National Port Authority; a certificate issued December 13, 1996, concerning the termination of the employer-employee relationship between Carlos E. Henry and the National Port Authority because of the privatisation of services and mutual agreement; a certification of the calculation for indemnity and the payment of termination pay to December 15, 1996, concerning Mr. Carlos E. Henry issued by the National Port Authority; a certification of the contributions to the Complementary Employment Benefits Fund from April 1975 to January 1997, of Mr. Carlos E. Henry, notified November 11, 1997; personnel orders of September 21, 1994, concerning Mr. Carlos E. Henry at the National Port Authority valid as of October 7, 1994; a certification of termination of the employee-employer relationship by mutual agreement between Sergio Marín and the National Port Authority issued December 20, 1996; work certificate of Sergio Marín issued by the Office of the Management Director of the National Port Authority on December 20, 1996, whereby it is certified that he worked from the 07/10/1994 to the 15/12/1996; salary certificate of Sergio Marín issued by the

Head of the Individual Accounts Department of the Social Security Bureau on December 10, 1996; work certificate of Maricela de-Altamarinda issued by the Office of the Management Director of the National Port Authority on January 7, 1997, whereby it is certified that he worked from the 07/10/94 to the 31/01/97; calculation for indemnity and the payment of termination pay of Maricela Altamarinda, issued by the National Port Authority on December 15, 1996; a certification of February 7, 1997 concerning the termination of the employer-employee relationship by mutual agreement between Maricela de-Altamarinda and the National Port Authority, whereby it is certified that she started to work on the 30/11/81 and ended the 31/01/1997; a salary certificate of Maricela Rodríguez-T. M issued by the Head of the Individual Accounts Department of the Social Security Bureau on November 30, 1996; a certification of the termination of the employer-employee relationship because of the privatisation of services and mutual agreement, between Maricela de-Altamarinda and the National Port Authority issued by the Personnel Department of the National Port Authority on February 4, 1997; appendix IV, letter signed by the former employees of the National Port Authority Maricela de-Altamarinda and Sergio Marín, dated August 24, 1998; appendix V, Resolution of the Board of Directors of the National Telecommunications Institute, S.A. (INTEL, S.A.) approved at the May 19, 1997, session; appendix VI, minutes of July 23, 1997 of the Ministry of Labour concerning the agreement between Cable and Wireless Panama, S.A. (formerly INTEL) and Mr. Rodríguez-Mireya; out-of-court labour transaction (Law 25 of December 14, 1990) between the representatives of Cable and Wireless Panama, S.A. (formerly INTEL) and Ms. Mireya Rodríguez, dated July 22, 1997; appendix VII, Official Gazette of Panama, N° 22.632, of September 28, 1994, which includes Executive Decree N° 469 of September 23, 1994; appendix VIII, an article of the "La Estrella de Panamá" daily newspaper, entitled "Thousands of workers demonstrated and reiterated the strike today," published on December 5, 1990; an article of the "La Estrella de Panamá" daily newspaper, entitled "Law would ignore the jurisdiction of public employees," published December 7, 1990, which contains the draft bill of Law 25 sent to the Legislative Assembly; an article of the "La Estrella de Panamá" daily newspaper, entitled "XIII month expectation is an egotistical demand," published October 15, 1990; an article of the La "La Estrella de Panamá" daily newspaper, entitled "Thousands of public employees against the government's economic measures," published October 17, 1990; appendix IX, a newspaper clipping from "El Siglo," of December 3, 1990, entitled "National strike December 5, 1990;" appendix X, March 7, 1990, document entitled "Manifesto to the country," signed by Isaac Rodríguez, Gabriel Castillo, Fidel Castillo, Flavio Cajar, Virgilio Castro, Felipe Argote, and Genaro López; a labour union notice of the Co-ordinating Organisation of State Enterprises of October 10, 1990; a labour union notice of the Co-ordinating Organisation of State Enterprises of November 17, 1990, issued by the National Co-ordinating Organisation for the Right to Life, special bulletin of SITINTEL entitled "Information summary on our current struggle;" appendix XI, Index; "Summary table of salaries, bonuses and thirteenth month bonuses, by organisations, to December, 1997;" IRHE table entitled "Employment commitment with employees dismissed pursuant to Law 25 of December 14, 1990, January, 1991 to December, 1997 period;" INTEL table entitled "Employment commitment with employees dismissed pursuant to Law 25 of December 14, 1990;" table of the National Port Authority entitled "Personnel dismissed pursuant to Law 25 of the 14/12/90, employee benefits due to December 31, 1997;" table of the National Port Authority entitled "Cristóbal Port personnel dismissed pursuant to Law 25 of Dec. 14, 1990, employee benefits due to December 31, 1997;" table entitled "Law 25 of December 14, 1990;" table of the Ministry of Public Works entitled "Employment commitments with the employees

dismissed pursuant to Law 25 of December 14, 1990, January 1990 to December, 1997, period;" table entitled "January, 1991 to December, 1997;" table of the Ministry of Education entitled "Staff member dismissed pursuant to Law 25 of Dec. 14, 1990, employee benefits due to December 31, 1997;" table of the Renewable Natural Resources Institute entitled "Personnel dismissed pursuant to Law 25 of December 14, 1990, employee benefits due to December 31, 1997;" appendix XII, INTEL table entitled "Employment commitments with the employees dismissed pursuant to Law N° 25 of December 14, 1990;" note N° 66-Pers/95 issued by the Head of the Personnel Department of the National Water and Sewerage Institute on August 7, 1995, concerning the work performed by Miguel Prado-Domínguez; personnel orders of March 17, 1995, concerning Miguel Prado, at the National Water and Sewerage Institute; notice of March 17, 1995, concerning the appointment of Miguel Prado, at the National Water and Sewerage Institute; judgment of the Third Administrative Conflicts Section of the Supreme Court of September 13, 1993, concerning the full-jurisdiction administrative conflicts action brought in representation of Miguel Prado; full-jurisdiction administrative conflicts action before the Third Section of the Supreme Court of June 25, 1993, brought in representation of Miguel Prado; civil rights protection remedy on constitutional rights invoked before the Supreme Court of June 20, 1991, in representation of the IDAAN Workers Union; two copies of the request for certification submitted August 23, 1991, to the Ninth Prosecutor of the Panama Circuit on behalf of Miguel Prado; certification of August 26, 1991 issued by the Secretariat of the Ninth Prosecutor's Department of the First Panama Circuit concerning Miguel Prado; special powers of attorney granted by Miguel Prado to the forensic firm Villalaz and Associates on August 23, 1991;two copies of the appeal filed before the Board of Directors of the National Water and Sewerage Institute on March 22, 1991, in representation of Miguel Prado; reconsideration and appeal remedy in subsidy filed before the Director of the National Water and Sewerage Institute on December 5, 1990, in representation of Miguel Prado; reconsideration and appeal remedy in subsidy filed before the Director of the National Water and Sewerage Institute on December 7, 1990, in representation of Miguel Prado; Executive Resolution N° 18-91 issued February 7, 1991 by the Executive Director of the National Water and Sewerage Institute; memorandum N° 81 of December 5, 1990, whereby Mr. Miguel Prado is advised by the National Water and Sewerage Institute that he has been dismissed; personnel orders of Miguel Prado issued by the National Water and Sewerage Institute of December 5, 1990; appendix XIII, Internal Regulations of the Water Resources and Electric Power Institute, approved through Resolution N° 58-SRI of July 5, 1985; appendix XIII-A, Internal Discipline Regulations of the National Renewable Natural Resources Institute approved through Resolution N° J.D.-001-92 of January 22, 1992; appendix XIII-B, Internal Personnel Regulations of the National Water and Sewerage Institute of May 17, 1983; appendix XIV, personnel orders of Eugenio Tejada issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; resolution N° 202-90 of December 19, 1990, issued by the Director General of the National Port Authority, whereby the appointment of staff member César Antonio Aparicio is declared null and void; resolution N° 193-90 of December 19, 1990, issued by the Director General of the National Port Authority, whereby the appointment of staff member Fernando Dimas-R. is declared null and void; personnel orders of Miguel Ángel Martínez issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Miguel Ángel Martínez issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Luis Antonio Martínez at the National Port Authority of October 21, 1992, effective as of December 16, 1992; personnel orders of Jaime J. Legal at the National Port

Authority of September 21, 1994, effective as of October 7, 1994; personnel orders of Tomás Morales at the National Port Authority of December 18, 1990, effective as of December 19, 1990; personnel orders of Tomás Morales at the National Port Authority of September 21, 1994, effective as of October 7, 1994; personnel orders of Enrique Jiménez at the National Port Authority of December 18, 1990, effective as of December 19, 1990; personnel orders of Carlos Archibold issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Maricela Rodríguez issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Maricela Rodríguez issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Sergio Marín issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Sergio Marín issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Ismael Campbell issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Ismael Campbell issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Gabino Young issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Gabino Young issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Daniel Health issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Daniel Health issued by the National Port Authority on September 28, 1994, effective as of October 23, 1994; personnel orders of Carlos Ernesto Henry issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Carlos Ernesto Henry issued by the National Port Authority on September 21, 1994, effective as of October 7, 1994; personnel orders of Luis A. Cabeza issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; letters from the Director General of the IHRE, of December 11, 1990, addressed to Manrique Mejía, Esteban Perea, Cristóbal Segundo and Raúl González Rodaniche; a letter from the Director General of the IHRE, of December 13, 1990, addressed to Jorge Martínez; letters from the Director General of the IHRE, of December 10, 1990, addressed to Víctor Buenaño and Geovani Prado; letters from the Director General of the IHRE addressed to Jaime Espinoza, Andrés Bermúdez and Luis Tuñón in December, 1990; death certificate of Luis Alberto Tuñón issued by the Directorate General of the Citizen's Registration Bureau on February 6, 1997; a letter from the Director General of the IHRE, of December 11, 1990, addressed to Magally Herrera; personnel action of Alexis Garibaldi, of December 10, 1990, effective as of December 12, 1990; death certificate of Alexis Garibaldi-Barrera issued by the Social Security Administration; a letter from the Director General of the IHRE, of December 10, 1990, addressed to Ernesto Romero; personnel action of Ernesto Romero-Acosta issued by the IHRE on December 10, 1990, effective as of that same date; a letter of the Director General of the IHRE of December 11, 1990, aimed at Amed Navalos; a letter of the Director General of the IHRE, of December 12, 1990, addressed to Víctor Soto; a letter of the Director General of the IHRE, of December 10, 1990, addressed to Darién Linares; a letter of the Director General of the IHRE, of December 11, 1990, addressed to Juanerge Carrillo; personnel action of Navalo J. Amed issued by the IHRE on December 11, 1990, effective as of that same date; a letter of the Head of Personnel of the Bayano Cement State Enterprise, of January 17, 1991, addressed to Milixa Ayala; a letter of the Head of Personnel of the Bayano Cement State Enterprise, of January 2, 1991, addressed to Marco T. Moscoso, Saúl Quiróz, Enrique Silvera, Fernando Hernández, Andrés Guerrero, José Corbalán

and Hildelbrando Ortega; a letter of the General Manager of the INTEL, of December 11, 1990, addressed to Ivanor Alonso; reconsideration or revokation remedy action before the General Manager of the INTEL brought by Ivanor Alonso on December 18, 1990; a letter of the General Manager of the INTEL, of December 10, 1990, addressed to Rolando Miller; reconsideration or revokation remedy action brought by Rolando Miller before the General Manager of the INTEL on December 13, 1990; letters from the General Manager of the INTEL, of December 12, 1990; addressed to Ramiro Barba, María de-Sánchez, and Gustavo Mendieta; a letter from the General Manager of the INTEL, of December 11, 1990, addressed to Jorge Aparicio; a letter from the General Manager of the INTEL, of December 10, 1990, addressed to Algis Calvo; a letter from the General Manager of the INTEL, of December 17, 1990, addressed to Wilfredo Rentería and Rolando Roa; letters from the General Manager of the INTEL, of December 11, 1990, addressed to Joaquín Barria, Carlos Márquez, Manuel Sánchez, and Guillermo Torralba; a letter from the General Manager of the INTEL, of December 12, 1990, addressed to Pedro Valdés and Jorge Cobos; personnel resolution N° 184 PARAÍSO, of December 17, 1990, issued by the Director General of the National Renewable Natural Resources Institute for the dismissal of Elías Ortega; appendix XV, certifications issued on August 13, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Víctor Manuel Buenaño, Cristóbal Segundo, Juanarje Carrillo-Batista, and Esteban Perea-Ponce; certification issued on August 20, 1991, by the Secretariat of the the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Jaime Espinosa; certifications issued on September 9, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Domingo Montenegro and Elías Ortega; certifications issued on August 30, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Euribiades D. Marín-Z., and César Augusto Contreras-P.; appendix XVI, a letter from the CEJIL, of July 9, 1997, addressed to the Inter-American Commission; appendix XVI-A, two copies of a letter of September 25, 1998, addressed to Messrs. Carlos Ayala-Corao, Hélio Bicudo, Jorge Taiana, and Manuel Velasco-Clark; appendix XVI-B, a letter from Rolando Miller, of August 16, 1998, addressed to the Inter-American Human Rights Committee; and appendix XVII, a letter from Luis Estribí-Rivera, Elberto L. Cobos, Rolando Miller, Jorge Elías Murillo, Ricardo Powell, and Francisco Segura-Berrocal, of August 25, 1998, addressed to the Inter-American Human Rights Committee.

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60. During the public hearing on the merits held at the Court's seat on January 27, 2000 (supra para. 45), the representatives of the State submitted photocopies of documents, which contained two judgments, handed down by the Supreme Court of Panama. [FN4]

[FN4] cfr. photocopies of pages 153, 154, 155, 156 and 157 of a document, which contain a judgment handed down by the Full Supreme Court of Panama on September 28, 1990, whereby it declares legal the arrest of Ms. Gisela Vega-Miranda, and therefore orders that the person under detention be immediately placed under the authority of the First Superior Prosecutor of the Third Judicial District of Panama; and photocopies of pages 33, 34 and 35 of a document, which contain a judgment handed down by the Full Supreme Court of Panama, of November 8, 1990, in confirmation of the judgment handed down by the First Superior Court, of October 4, 1990, by virtue of which the civil rights protection remedy for the protection of constitutional guarantees

filed by Mr. Alex Askaandar-Ashouri against the Seventh Prosecutor of the First Judicial Circuit of Panama is rejected.

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61. On November 22, 2000, the State submitted several documents, which had been requested by the Court as evidence to broaden the knowledge on the matter, on the basis of Article 44 of the Rules of Procedure (supra para. 53). [FN5]

[FN5] cfr. volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of t he record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and in representation of Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Ángel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Alemán-L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; volume I of the record of the case before the Second Superior Court of the First Judicial District, for the offence against the internal personality of the State, brought against the accused Eduardo Herrera-Hassán et al; record of the case before the Seventhy Court of the Panama Circuit for the offence of sedition against Eduardo Herrera-Hassán et al; record of the case before the Ninth Prosecutor’s Department of the First Judicial Circuit of Panama for the offence of sedition against Eduardo Herrera-Hassán et al; volume II of the record of the case before the Second Superior Court of the First Judicial District against the accused Eduardo

Herrera-Hassán et al, for the offence against the internal personality of the State; volume II of the record of the case before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition against Eduardo Herrera-Hassán et al; volume II of the record before the Ninth Prosecutor's Department of the First Judicial District of Panama, Ancón Area, for the offence of sedition against Eduardo Herrera-Hassán et al; volume III of the record of the case before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition against Eduardo Herrera-Hassán et al; volume III of the record of the case before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al; volume IV of the record of the case before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition against Eduardo Herrera-Hassán et al; volume V of the record of the case before the Second Superior Court of the First Judicial District, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al; volume V of the record of the case before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition against Eduardo Herrera-Hassán et al; volume V of the record of the case before the Prosecutorial Agency for the offence of sedition against the accused Eduardo Herrera-Hassán et al; volume VI of the record of the record of the case before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition against Eduardo Herrera-Hassán et al; volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al; volume VII of the record of the case before the Seventh Court of the Circuit, Penal Branch, of Panama, for the offence of sedition, against Eduardo Herrera-Hassán et al; volume VIII of the record of the case before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against the accused Jorge Eliécer Bernal; and volume VIII of the record of the case before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against the accused, Eduardo Herrera-Hassán, et al.

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62. The State submitted a note whereby Mr. Jorge Nicolau, Administrative and Product Development Director of Cable & Wireless Panama, S.A., informed about the workers that said company had rehired (supra para. 41).

63. Mr. Jean-Michel Arrighi, Director of the International Law Department of the OAS, sent a note informing that no notice had been received or recorded by that Department concerning the suspension, by Panama, of the guarantees provided for in the Convention (supra, para. 30).

64. Together with the brief relative to costs and expenses requested by the Court, the Commission delivered a copy of the 108 documents contained in the 3 appendices (supra, para. 56). [FN6]

[FN6] cfr. Appendix I: table of "Expenditures Incurred by the Workmates of Law 25" in connection with the proceedings at the national courts and in the Inter-American System; appendix II: note of December 12, 2000, addressed to Mr. Hélio Bicudo, President of the Inter-American Commission, from Mr. Manrique Mejía, Co-ordinator of those dismissed pursuant to Law 25, entitled "Summary of the actions performed by Ms. Minerva Gómez in the proceedings

of the international application relative to the dismissals under Law 25, 1990, in the inter-American human rights system;" and appendix III: check N° 15965 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 21, 2000, to the order of Mr. Fernando del-Río-Gaona; payment order N° 8812 issued on January 21, 2000 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Fernando del-Río-Gaona; check N° 12105 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1997, to the order of Viajes España; payment order N° 43(illegible) issued on March 18, 19(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 3458 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1992, to the order of Mr. Agilio Acuña-G.; unnumbered payment order issued March 17, 1992 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Agilio Acuña; check N° 3463 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1992, to the order of Mr. Manuel Rodríguez; check N° 11563 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on September 27, 1996, to the order of Mr. Rafael Lascano; payment order N° 3749 issued September 27, 1996, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11604 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on October 15, 19(illegible), to the order of Viajes España; payment order N° 3790 issued October 15, 19(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 11930 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 22, 1997, to the order of Viajes España; payment order N° 4153 issued January 22, 1997, by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; unnumbered payment order issued March 18, 1992, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Manuel Rodríguez; check N° 11669 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on November 6, 1996, to the order of Mr. Rafael Lascano; payment order N° 3858 issued November 6, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11768 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on December 2, 1996, to the order of Viajes España; payment order N° 3976 issued December 2, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 11772 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on December 2, 1996, to the order of Mr. Rafael Lascano; payment order N° 3980 issued December 2, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11995 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 14, 1997, to the order of Mr. Manrique Mejía; payment order N° 4223 issued February 14, 1997 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Manrique Mejía; check N° 09427 of an account

of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 15, 1995, to the order of Manrique Mejía; check N° 09323 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 22, 1995, to the order of Mr. Manrique Mejía; check N° 13404 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 6, 1998, to the order of Mr. Rolando Gómez; payment order N° 5779 issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; check N° 14777 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 21, 1999, to the order of Mr. José A. Arosemena-Molina; payment order N° 7266 issued January 21, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José A. Arosemena; folio numbered as "Control N° 19723" issued 06/02/97 by Viajes España to the SITIRHE; folio numbered as "Control N° 17856" issued 25/09/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 17896" issued 27/09/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 19042" issued 10/12/96 by Viajes España to the SITIRHE; invoice N° 2616 issued January 14, 1999, by Transportes Internacionales Centroamericanos (Tica Bus, S.A.) to Rolando Gómez; unnumbered payment order issued January 14, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; invoice issued by Servicio de Lewis, S.A. January 14, 1999, to the SITIRHE; unnumbered payment order issued January 14, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 15, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Tomás Segura; unnumbered payment order issued January 16, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 22, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 28, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 28, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; a document that contains three invoices of the Banco de Costa Rica for the purchase of dollars; unnumbered payment order issued January 28, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Tomás Segura-Gómez; unnumbered payment order issued January 29, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Tomás Segura-Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 17, 1999, by the Workers Union of the Water Resources and Electric Power

Institute to the order of Mr. Rolando A. Gómez; a document that contains an receipt issued January 18, 1999 by Mr. Carlos R. Martínez, whereby it is stated that he received "valid documents" from Mr. Rolando Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; document N° 47578 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, which states that it received two balboas from Mr. Tomás Segura-Gómez; document N° 47577 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, which states that it received two balboas from Mr. Rolando A. Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; a document issued by Transporte y Turismo Padafront Panamá, whose sender is José Santamaría, the consignment order bearing number 19589; an invoice issued January 23, 1999, by Rincón Universitario to the Workers Union of the IRHE; an invoice issued January 19, 1999, by Inversiones Candy, S.A., to the SITIRHE; unnumbered payment order issued January 25, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Eric González; unnumbered payment order issued January 25, 1999 by the SITIRHE to the order of Mr. José Santamaría; document N° 47790 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Eric González; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Nathaniel Charles; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Christian Pérez; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Domingo De-Gracia; unnumbered payment order issued January 18, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; document N° 47787 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Domingo De-Gracia; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Orón Darío Miranda; document N° 47783 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Orón Darío Miranda; unnumbered payment order issued January 28, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; receipt N° 001246 issued January 28, 1999 by CARITAS NACIONAL DE COSTA RICA to the SITIRHE; unnumbered payment order issued January 29, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Javier Muñóz; document N° 47789 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Javier Muñóz; unnumbered payment order issued January 24, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 24, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; document N° 088627 issued by Artes Técnicas, S.A. (ARTEC)

January 23, 1999, to the Workers Union of the IRHE; unnumbered payment order issued January 22, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of José Santamaría; invoice N° 1063759 issued by Kodak, Panama Ltd., on January 22, 1999; unnumbered payment order issued January 23, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 19, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of José Santamaría; invoice N° 108279 issued by Happy Copy January 19, 1999, to the Workers Union of the IRHE; invoice N° D.V.75 issued January 20, 19(illlegible) to the Workers Union of the IRHE; unnumbered payment order issued January 21, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; document N° 21778 issued by Transporte Inazún, S.A., January 21, 1999; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Rolando A. Gómez; two copies of payment order N° 7232 issued January 13, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; note of January 11, 1999 addressed to Mr. José A. Arosemena, of the Workers Union of the IRHE, from Messrs. Rolando A. Gómez-C., and Fernando Del-Río-Gaona; a document entitled "…made in San Jose, Costa Rica, from January 19 to 29, 1999," which is signed by José Santamaría, it being partially illegible; two copies of a document issued by the Compañía Panameña de Aviación, where it is stated that it received from Mr. José Arosemena the amount of two hundred eighty-three dollars (US$283.00); two copies of invoice N° 1103 issued by Hotel del Bulevar January 29, 1999 to Mr. José Arosemena; a receipt for advance N° 3298 issued by Hotel Royal Dutch January 25, 1999; receipt for cash N° 158 issued by Marvin Murillo-Porras January 24, 1999; two copies of an air travel ticket issued by Compañía Panameña de Aviación to Mr. José Arosemena, for a trip to San Jose, Costa Rica, from January 24 to 29, 1999; a document that contains an invoice from Banco de Costa Rica for the purchase of dollars; a note of September 19, 1996 addressed to Viajes España by Mr. Narciso Barsallo, Secretary of Finance, SITIRHE; folio numbered as "Control N° 18428" issued 31/10/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 18427" issued 31/10/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 18381" issued 29/10/96 to the SITIRHE; unnumbered payment order issued December 2, 1996, by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; invoice N° 5212 issued by Klassic Travel February 6, 1998, to Rolando Gómez; unnumbered payment order issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; two copies of the table entitled "Persons who go to the hearing in Costa Rica. Law 25 case;" table entitled "Persons who shall travel to San Jose, Costa Rica," to the hearing on the merits of case 11.325. **Law 25**; and table entitled "Expenditures made in San Jose, Costa Rica, from January 19 to 29, 1999."

B) TESTIMONIAL AND EXPERT WITNESS EVIDENCE

65. On January 26, 27 and 28, 2000, the Court received the statements by the witnesses and expert witnesses proposed by the parties in the instant case. The Court hereby proceeds to summarise the relevant parts of such statements.

a. Statement by Ramón Lima-Camargo, Vice Minister of the Interior and Justice during the Presidential Administration of Mr. Guillermo Endara-Galimany

On November 4 or 5, 1990, the conversations among a group of State workers and the National Government had already failed or were about to fail. Since the petition presented by the Co-ordinating Organisation of State Enterprise Workers Unions was rejected, the workers carried out a demonstration intended to encourage the National Government to renew the negotiation of the petitions. The event coincided with the uprising of colonel Eduardo Herrera-Hassán. Since October, 1990 this colonel had been under detention in a penal facility at Naos and Flamenco Islands, after having been accused of co-ordinating the placing of bombs. On December 4, 1990, approximately at 5 p.m., a helicopter landed at the facility where colonel Herrera-Hassán was being held, whereupon the latter boarded it and headed for the fort of Tinajitas, formerly a fort of the Defence Forces in San Miguelito. The witness was at the central headquarters of the Police approximately since 7 p.m. that day. The Minister of the Interior and the Chief of the National Police were at the Presidency of the Republic at the request of the President. Approximately at 9 p.m. colonel Herrera-Hassán entered with weapons into the central headquarters of the National Police accompanied by special units of the National Police, and forced its occupants to leave. He informed the Minister of the Interior over the radio about such entry. He held interviews with colonel Herrera-Hassán, who expressed he was waiting for some workers. During the interviews held, the above-mentioned colonel Herrera-Hassán gave him a petition, which he later brought to the Presidency of the Republic. On December 5, 1990, after the uprising was brought under control, the Ministry of the Interior and Justice commissioned the Chief of the National Police, Mr. Ibrahim Pak, to carry out an internal investigation of the events. He does not remember any reference, in the Police report, to a possible contact or conversations among the mutineers and the labour leaders. Investigations were conducted at the Prosecutorial Agency concerning the movement headed by colonel Eduardo Herrera-Hassán. A report was requested of him concerning his performance during the events of December 4 and 5. The Minister of the Interior and Justice was on the Board of Directors of the National Telecommunications Institute (INTEL). He does not know whether the authorities at INTEL carried out any investigation prior to the dismissal of the workers of the institution. The strike scheduled by the workers for December 5 was not declared illegal. Some call it a strike, but for him it was the declaration of a "militant" work stoppage, which consisted of attending the work sites but not to work. At no moment was the work stoppage at the State institutions regarded as cause for the dismissal of the staff members. The President of the Republic felt that they were attempting to replace him, for which reason he ordered the discussion of a draft bill at the Cabinet Council, which was submitted to the Legislative Assembly, and whose purpose was to dismiss some persons who had taken part in the demonstrations that coincided with the military uprising. President Guillermo Endara-Galimany was determined to apply Law 25 even before its enactment, whereby the draft contained a provision that permitted its retroactivity. A constitutional provision establishes that

public order and social interest laws may be of a retroactive nature if it is so established in the law itself. The Law 25 draft bill established that it was a public order and social interest law, and it provided for its application to events having occurred since December 4, 1990. None of the articles of the Law established the requirement of a previous trial, since what was sought was the immediate dismissal of a group of workers. He did not participate in the preparation of Resolution N° 10 of January 23, 1991, of the Cabinet Council. Minister Ricardo Arias-Calderón sent him the draft bill, which was approved by the Cabinet Council, with instructions to the effect that he regard it as a priority issue and that he express an immediate opinion with respect thereto. He went to the office of the Minister and delivered his opinion verbally, having pointed out that his first impression was that such bill was going to be unconstitutional in some respects, and that it violated human rights since it intended to define conducts having been displayed as of December 4 or 5, and a summary administrative conflicts proceeding was established for all of the workers, whether they were or not protected by a special law. The Minister told him that the problem was that the President wanted that bill to be discussed and passed that afternoon, since he was going to forward it immediately to the legislative body in order for it to become a law. The Minister did not take into consideration the legal reasons for which the Law should not be passed, since it was felt that it was a strictly political situation, a decision of the Christian Democratic Party. Law 25 grants the public servants affected access to an administrative and judicial revision of their cases. In Panama, the Supreme Court is the entity responsible for the control of constitutionality, that is, for determining judicially the existence of a defect of unconstitutionality in a law.

b. Statement of José Mauad-Doré, General Manager of the National Telecommunications Institute

In November, 1990 more than 3,900 workers were under his sphere of authority. Approximately in the month of October, 1990, a general request was set forth and submitted to the National Government by the Co-ordinating Organisation of State Enterprise Workers Unions. He knows about the promotional labour union activities carried out by the workers of INTEL, that is, the December 4, 1990, march, and the December 5, 1990, work stoppage. There were labour union delegates at the INTEL work sites who, according to reports by the administrative heads, were convoked, together with the workers union leaders, to meetings for motivation, encouragement and organisation of the march that took place on the 4th, and the work stoppage that had been scheduled for the following day. Said meetings took place approximately over the 10 days that preceded the December 4 march. He attended some of these meetings. The work stoppage organisers and promoters expressed to him that the reasons for the work stoppage were, in general, certain aspects of the political situation of the country which affected their condition as workers or citizens, and that these were not legal objections or legal type arguments, but instead a proposal of a rather national nature. At these meetings he suggested two things: that to participate in a march was a right that every citizen had, but that for the purposes of INTEL it had to take place after 4 o'clock in the afternoon, which was quitting time for the workers, and that the convocation to the work stoppage on the 5th bore no relationship to any problem in which the institution may have been involved. On December 5, 1990, in the early hours of the morning, a partial work stoppage took place at INTEL. The latter included personnel whose shift started at 7 o'clock in the morning and administrative office personnel whose shift started at 8 o'clock in the morning; these were hours of service to the public, which was affected as a

consequence of said convocation. Approximately at 9 o'clock in the morning of the 5th, INTEL workers had gathered outside the work sites. Approximately as of 8 thirty and 9 o'clock in the morning, some executives and he approached these groups of workers to ask them to return to their jobs; some did so as of 9 in the morning, approximately, and others returned later. Their return to work was done gradually. Nearly at noon, INTEL was working again at its normal pace. He did not learn about the reasons for the interruption of the work stoppage, nor did he have any knowledge of a decision by the workers union to suspend it. Some of the workers who went back to work informed the heads of the work sites, that the union's leadership had instructed them to do so. During the time that the work stoppage lasted at INTEL, the essential services were maintained operational. While persuasion efforts were being made to urge the workers on the stoppage to go back to work, the management at INTEL was monitoring the development of colonel Herrera-Hassán's movement. He did not know whether the workers were also monitoring said movement. There was no proof at INTEL that would lead to the presumption that there was a connection between the workers' movement and that of colonel Herrera-Hassán; at that time the instructions of the President of the Republic were complied with, which were transmitted either directly or through members of his Cabinet. In response to the work stoppage of December 5, 1990, the State took certain measures, including the enactment of Law 25. Law 25 had a two-pronged effect: it suspended the application of some special laws that established the labour system of some State enterprises, such as INTEL among others, and it provided for a declaration of non subsistence for those workers who would have participated in the promotion, organisation, convocation or implementation of the actions that took place December 4 and 5, 1990. Within the framework of INTEL, the instructions for the application of said Law were issued by the Presidency of the Republic. The workers who were involved in the actions alleged as per Law 25 were identified and, through a resolution of the office of the Manager of Human Resources, a declaration of non-subsistence of the workers' appointments was made, the workers having been informed with respect thereto through a note. The identification that those who were responsible had was given on their own perception at the work sites he visited, and in those sites to which he had no access, it was developed through the information provided by the respective managers. He does not remember whether tests that would be compared against the contents of the reports were requested or performed. The only means that the workers had to question such reports before the office of the Director of INTEL were those remedies that Law 25 provided for, which were the reconsideration and the appeal remedies. The reconsideration remedies were dealt with in the first place by the administrative entity that ordered the dismissal, that is, the office of the Manager of Human Resources, and were later dealt with by him directly, whereby the governmental recourse became exhausted. The reconsideration remedy was a very simple one, and it was presented in written form on plain paper. In the case of INTEL it was not subject to any formality at all, and it was received, analysed and decided on by the officer who ordered the dismissal. It had to be finalised through a resolution of the competent administrative department, whereby the employee was notified with respect thereto. The administrative procedure to which the INTEL staff members were subject prior to December 4, 1990, for the application of sanctions relative to discipline and dismissal was based on Law 8 of 1975, which applied both, to the National Telecommunications Institute, and the Water Resources and Electric Power Institute. According to this procedure, the worker was notified about charges which the management felt warranted some type of sanction, and this was discussed in the first instance at a Company Committee, which transmitted the matter to the Workers Union. Law 8 followed along the same lines as the Labour Code, with some additions. He does not know

whether Law 25 facilitated the dismissal process since it envisioned a legal system that was different to the system that applied to INTEL workers prior to December 4, but it certainly created a different dismissal system. He does not remember whether Law 25 established the possibility to appear before a court of law once the governmental recourse had been exhausted. He participated only in one administrative conflicts remedy before the Third Section of the Supreme Court; he did not participate in any penal proceedings. He does not remember whether there were any dismissals between December 5 and 14, 1990. The workers of INTEL were under a work contract.

c. Statement of Rogelio Cruz-Ríos, Attorney General of the Nation from December 1990 to November 1991

According to the Constitution of Panama, the Attorney General of the Nation is the Head of the Prosecutorial Agency, whose main duty is to investigate offences, pursue offenders and transmit later the case to the judicial branch to be finally solved. The Cabinet Council is comprised of the President of the Republic, the two Vice Presidents, and the State Ministers. Said Council appoints the Attorney General of the Nation, such appointment being subject to approval by the Legislative Assembly. At the time of the December 4 and 5, 1990, events the Panamanian Government had been in power for one year after more than 20 years of military dictatorship. Within such a context, certain labour, union, and specifically public servant groups whose activities were governed by the Labour Code, submitted a number of petitions to the National Government, which were rejected. This group of labour unions and workers announced a march for December 4, 1990. In the course of such march, colonel Eduardo Herrera-Hassán, who had been the Third Chief of the National Police, and who was under detention, escaped together with other former members of the military, thanks to the complicity of National Police personnel. Following this they took the National Police headquarters. In the morning of December 5, 1990, colonel Herrera-Hassán led a public march with weapons through the streets of Panama City, supposedly to address the Legislative Assembly, where he intended to speak to the country.Very few persons took part in the march, basically armed military or formerly military personnel. No workers took part in it. Colonel Herrera-Hassán's movement was discovered early in the morning of the 5th, approximately at nine thirty, when U.S. Army forces arrested the colonel and turned him over to the Panamanian authorities. It became publicly known that, being aware that the Executive Branch intended to associate them with colonel Herrera-Hassán's movement, the workers suspended the work stoppage that they had scheduled. This double situation, the petition and the workers' march, on the one hand, and the escape of colonel Herrera-Hassán, on the other, generated a crisis situation that the National Government did not know how to handle at that moment; perhaps it should have decreed a state of urgency but it did not do so. As Attorney General of the Nation he felt that the worker's movement did not endanger or affect either the march of democratic institutions or public security. The Constitution governed mechanisms to cope with situations of urgency or public order disturbance, which were not used. The Government rushed into the adoption of certain measures, basically Law 25. He was requested, in his capacity as Attorney General of the Nation, to accuse the union leaders of felonious participation together with colonel Eduardo Herrera-Hassán; however, he did not formulate the accusation since he found no elements of judgment that would enable him to tie together the union leaders with the felonious acts under investigation. Messengers from the official domain told him that what he had to do was to put the union leaders in prison and that the problem would

be solved this way. Something that has to be taken into consideration is the fact that these were strong, powerful unions that President Endara-Galimany's administration regarded as political opponents. The purpose of Law 25 was simply to cause them to disappear. The Government proceeded to pass quickly the cited Law 25, which, in his opinion, was absolutely unconstitutional. Said law was passed on December 14, and was published on the Official gazette on December 17, but most of the dismissals had already been made by the 14th. In Panama, the authority with competence to investigate offences against the constitutional order, such as rebellion, sedition or any other offence against the security of the State, was the Prosecutorial Agency, according to the Constitution and the law. However, a type of special jurisdiction for this case was created pursuant to Law 25, and it was determined in the "paragraph" of Article 2 of said law, that the Cabinet Council would be the competent authority to determine when the acts of public servants became attempts against democracy and the constitutional order, which was equivalent to offences for whose investigation the Prosecutorial Agency was responsible. Later, the Supreme Court declared the "paragraph" of Article 2 of Law 25 unconstitutional. The Prosecutorial Agency, under his authority, started a penal summary proceeding the same day, December 5, in order to investigate whether offences had been committed and, in such cases, to determine who was responsible. Colonel Eduardo Herrera-Hassán and some other former members of the military, and even some civilians that had no relationship with the labour union leadership were placed on a list of individuals regarded liable. The investigation of labour union leaders was never ordered within the penal proceedings initiated, which were later referred to the judicial branch. Elements such as the coincidence between the movement of colonel Herrera-Hassán and the workers' movement were neither examined nor taken into consideration in the investigation of the office of the Attorney General, nor was the fact that colonel Herrera-Hassán would have informed a high State official that he was going to meet with workers after having escaped from the prison. The simple fact that colonel Eduardo Herrera-Hassán would have had the intention to meet with some labour union leaders did not make them a part of the acts that he carried out before and after his escape on December 4, 1990. In a note of the office of the Attorney General of November 8, 1991, addressed to the Chairperson of the Labour and Social Well Being Committee of the Legislative Assembly, it was stated that Law 25 of November 14, 1990, violated agreements 87 and 98 of the International Labour Organisation (ILO); that there was no evidence, in the investigation initiated, that groups of State workers would have participated in the attempted coup d'état, and that the rules of international law were above the Constitution. Said letter was characterised as the opinion of the Attorney General of the Nation. Law 25 changed the status of the workers who were under the Labour Code, by bringing them under the legal system of administrative law. The remedies filed before the labour jurisdiction were rejected and so were the administrative conflicts remedies. International human rights law has not been taken into account either by the Executive Branch, or by the courts. In its fourth article, the Constitution establishes that Panama abides by the rules of international law. The Supreme Court has established in reiterated jurisprudence that Article eight of the American Convention is a part of the constitutionality block, and that paragraph one of said Article establishes the right of all persons to be heard before being sanctioned, that is, before their penal, civil, and fiscal, obligations, among others, are established. It is evident that Law 25 violated Article 8 of the American Convention, at least with reference to its first paragraph. The constitutionality block was in existence since long before the Panamanian Supreme Court recognised it. When, in establishing its position in its judgment concerning the claims of the workers dismissed pursuant to Law 25, the Supreme

Court expressed that the American Convention and the International Covenant on Civil and Political Rights were only an overlap of the precepts of the Constitution and that they had the value of a law and lacked constitutional hierarchy, the office of the Attorney General of the Nation felt that the purpose of the judgment was to constitutionalise something that was not constitutional, but it was unable to express such an opinion publicly, since the Attorney General was in a very difficult situation as Head of the Prosecutorial Agency, and because of the fact that said complaint had been referred to another attorney's office. The International Labour Organisation (ILO) established that Law 25 violated Agreements 87 and 98. When the Supreme Court declared unconstitutional the "paragraph" of Article 2 of Law 25, the law was no longer necessary since it had been applied to its full extent. There was a discrediting campaign against him, which resulted in a penal proceeding that made it unconstitutionally possible for the Attorney of the Administration to suspend him on December 24, 1992. The Supreme Court convicted him for abuse of authority, but in the same judgment it suspended its effects. It was not desired for him to go to prison; it was, however, desired that he leave his position since he did not enjoy the political favour of t he Government.

d. Statement of Nilsa Chung-de-González, Penal Circuit Judge from February 1990 to June 1999

According to the Constitution and the Penal Procedural Code, the office of the Attorney General of the Nation is responsible for the investigation of offences against the security and integrity of the State. As a judge, it was her responsibility to determine the legal merits of the investigation of the penal proceedings against colonel Eduardo Herrera-Hassán, because of the takeover of the Public Force fort at Tinajitas and the central headquarters of the National Police.The record was received in the office in July 1992, and "was characterised by means of a mixed proceeding with orders to hold a trial and to grant a provisional acquittal on March 15, 1993." Former members of the military became bound by the proceedings carried out on the occasion of the alleged coup d'état. As a judge, she had the power to order the Prosecutorial Agency to extend the summary proceedings in order to establish whether persons other than those investigated had participated, but she did not exercise such powers since she felt there were no merits. The Panamanian administration of justice ruled out that the events of December 4 and 5, whose leading role was played by colonel Herrera-Hassán, constituted the offence of rebellion. She agreed with the criteria of the Ninth Prosecutor's department, whereby these acts constituted the offence of sedition. In the year 1995 the National Government issued a decree whereby all those "subject to prosecution" in the proceedings, with the exception of Mr. Eliécer Bernal, were pardoned.

e. Statement of Manrique Mejía, assessment expert of the Procurement Department of the Water Resources and Electric Power Institute (IRHE) from 1977 to December 1990

From 1986 to 1990 he had permanent permission as a labour union leader. In 1990 he participated in the Co-ordinating Organisation of State Enterprise Workers Unions, as a member of the Board of Directors of the IRHE labour union. On October 16, 1990, said Co-ordinating Organisation submitted to the Presidency of the Republic a request for: non-privatisation of State enterprises; non-reform of the law on the Social Security Administration; payment of bonuses and the thirteenth bonus month; halting of dismissals of the leaders of State enterprises; and welcoming of the claims of the students of the National Institute and of those displaced by the

war of Chorrillo. On November 16, 1990, the Government informed that it had decided to reject the petition of the Co-ordinating Organisation of State Enterprise Workers Unions. On November 17, 1990, said Co-ordinating Organisation agreed to organise a march on December 4, 1990, and a 24-hour work stoppage the following day, in order to make the Government meditate on the economic plan it was about to implement, which would greatly hurt the population. In the morning of December 4, 1990, the leaders spread themselves among the different work sites in order to invite the workers to take part in the march, which started at 16:30 hours at the del Carmen church to proceed down Vía España to May 5th square, where a rally was going to take place. The march progressed peacefully, without any problems, and was accompanied by an escort of "traffic detail members of the National Police." There were no proposals during this demonstration relative to the form of government. The Co-ordinating Organisation of State Enterprise Workers Unions did not have any knowledge of the takeover of the fort led by colonel Herrera-Hassán before the start of the march. At the end of the march they held a rally that ended more or less at 7 in the evening. At the end of the rally the leaders held a meeting to evaluate the results of the march. After 10 in the evening of that same day, they heard on the radio that colonel Eduardo Herrera-Hassán had escaped, and that several Government officials were trying to associate his escape with the workers' march. Such association that was made between the labour union movement and the uprising of colonel Herrera-Hassán was a determining factor for the decision to suspend the work stoppage scheduled for December 5, 1990; such decision would be made at 7 in the morning of the 5th day, depending on how the events would unfold. It was then that an agreement was reached to suspend the work stoppage. Because of the distance to the work sites, the suspension of the stoppage was delayed until about noon. He did not know colonel Herrera-Hassán personally. No State worker was judicially attached to the penal proceedings initiated against said colonel for the alleged attempted coup d'état. No member of the Co-ordinating Organisation of State Enterprise Workers Unions met with colonel Herrera-Hassán. At no moment during the December 5, 1990, work stoppage were the essential public services affected, since the workers were at their work sites. They did not advise the Ministry of Labour and Social Well Being about the stoppage eight days in advance, because the movement was not a strike; when a strike is planned, all arrangements are made in compliance with the requirements of said Ministry. Concerning the measures taken by the State vis-à-vis the workers who took part in or encouraged the work stoppage, as of December 10, 1990, at the time when a draft bill was presented to the Legislative Assembly, the management of the enterprises started to send them dismissal notices terminating the employer-employee relationship, pursuant to instructions from the President of the Republic. In said notices it was mentioned that the work stoppage had been associated with the attempted coup led by colonel Herrera-Hassán. Law 25 was applied to the Ministry of Labour, the Ministry of Public Works, the IRHE, the INTEL, the IDAAN, the Port Authority, the State Bayano Cement Enterprise, the Ministry of Education, the INRENARE, and the Social Security Administration, among others. The immediate heads of the workers determined who had backed the stoppage, and based on this they prepared their lists and delivered them to the heads of human resources, who decided whom they were to dismiss. Not all persons from the IRHE who took part in the work stoppage were dismissed; while more than 2,000 IRHE workers participated in it, only 137 of them were dismissed; it was a selective dismissal. Before the entering into force of Law 25, approximately 185 workers, out of 270 alleged victims, were dismissed pursuant to it, while the rest were dismissed later. This is proven by the dates on the dismissal notices. In order to justify the dismissals of the day before the entering into force of Law 25, the workers were advised in writing that by order of the President,

the appointments of all workers who had taken part in the work stoppage of December 5 were declared non subsistent; in a separate paragraph it was stated that the march of the 4th and the stoppage of the 5th were related to the attempted coup of colonel Eduardo Herrera-Hassán. The dismissal note was delivered in the office of the immediate boss, who made the dismissed workers sign. At the time that the dismissal notice was delivered, the date of dismissal was set on it. The witness was dismissed for having participated in the December 5, 1990, work stoppage. On December 11 of that same year, his boss delivered to him the dismissal notice, and he signed it in disagreement, since he was the holder of a permanent labour union permit allowed by the law. Despite the fact that he had labour union powers, he was dismissed without any type of investigation. Law 25 afforded the workers only two options to contest the decision of their superiors: reconsideration, before the person who had dismissed the worker, in this case the Manager or Director of the company, and a remedy action before the Third Administrative Conflicts Section of the Supreme Court. Under the internal proceeding against the decision to dismiss, the affected workers were not given the possibility to present evidence, counter arguments or allegations. The internal by-laws of the IRHE established that in order to dismiss a worker, the immediate boss had to request the Labour Co-ordination Department to investigate and determine which worker had the right to be assisted by a labour union leader or by the labour union representative for the area. After an investigation, this Department had to send its report to the Legal Department, which determined whether or not the dismissal was applicable. If it determined that the dismissal was applicable, the Personnel Department notified the worker that she or he had been dismissed. After the dismissal, the worker could appear before the Conciliation and Decision Board, accompanied by the labour union attorney. That Conciliation and Decision Board is comprised of three persons: one representative of private enterprise, one representative of the State, and one representative of the workers. The decision could then be appealed before the Superior Labour Court. In the event of disagreement on the part of the affected party after the decision of the Superior Labour Court was handed down, such party could bring the matter to the consideration of the Third Section of the Supreme Court. With Law 25, 5 or 6 recourses were eliminated. Additionally, with the previous system authorisation had to be obtained from the Labour Court to dismiss a person who was under the protection of labour union or maternity provisions. Law 25 did not respect either the labour union or the maternity provisions. Under the regulations provided for by Law 8 and the internal by-laws, unjustified absence for one day was not a cause for dismissal. Law 25 impeded the application of the internal by-laws, which pointed out that in the case of unjustified absence, the highest penalty was the discounting of a day’s pay. The workers dismissed pursuant to Law 25 who were not protected by labour union provisions appeared before the Conciliation and Decision Board, where all their demands were rejected since, according to Law 25, they were unable to process them. The labour courts asked the leaders who filed actions with them to withdraw them, since Law 25 prevented them from hearing such cases. They had to use the reconsideration recourse, to which a response was not made. The reconsideration recourse was a collective action filed by Mr. Adelirio Corbalán, Secretary of the Defence. All those affected by Law 25 at the IRHE, the INTEL, and the IDAAN, filed reconsideration remedies. They brought unconstitutionality action against Law 25, which was declared constitutional in 1991, with the exception of the “paragraph” of Article 2. They later brought action before the Third Section of the Supreme Court, which declared the dismissal legal based on the argument that Law 25 was constitutional.

f. Statement of Luis Antonio Batista-Juárez, a staff member of the Water Resources and Electric Power Institute (IRHE) from September 1972 to December 1990

He worked as general electrician in the high and low tension services as supervisor of such services, dispatcher, and Area Superintendent for Services and Maintenance of Electric Power Distribution Networks; the last position he held was that of Head of Electric Distribution for the country's electric areas and networks. In September 1988 he was dismissed together with a group of workmates; they were accused of abandoning the job as a result of a situation of convocation to a work stoppage, which was repressed by the Defence Forces of general Noriega's regime. President Guillermo Endara-Galimany reinstated him into his position in January 1990. He was assigned the position of Head of Electric Distribution of the Regional Management for the Province of Colón. The IRHE assigned him the task of performing actions intended to provide continuous 24-hour service. He was appointed "Hierarchical Chief," with the responsibility to co-ordinate all actions intended to maintain the service, and see to it that they were carried out. He was in knowledge of the activities that the Co-ordinating Organisation of State Enterprise Workers Unions was promoting, and took part in the march concerning the petition, and in the movement that was started upon the rejection of such petition. He saw the petition and gave his support to it. The petition consisted of 13 items which included the following: non-privatisation of state enterprises; respect for labour laws, internal by-laws, and those agreements made with the state enterprise organisations; payment of the thirteenth bonus month and other bonuses; respect for labour union organisations and derogation of both, the laws that changed the Labour Code, and the laws that were intended to change the benefits to members of the Social Security Administration, which meant all the workers; claims of the construction sector, problems of National Institute students, and problems of those persons who had been the victims of the war that had been fought in Panama. The marches that he attended were peaceful and very well organised. More than 70.000 persons attended the march of December 4, 1990. The march ended in a peaceful way. He learned about the escape of colonel Herrera-Hassán on December 5, 1990, upon his arrival in his work site in the city of Colón. He did not know colonel Herrera-Hassán. During December 4 and 5 he did not hear about any relationship or ties between the movement of the workers and that of colonel Herrera-Hassán. He did not take part in the December 5 stoppage; he worked all day until the end of his shift. All the workers were present at the work site under his responsibility; there he realised that the conditions that should prevail in the situation of the announced stoppage, namely to ensure the service in the emergency areas, were being complied with. He stayed in the area some two and a half hours; he called his immediate superior to inform him that the service to the citizenry was being guaranteed in the event of any emergency and that everything was normal. At no time were the essential public services affected. As Head of Distribution he did not take part in the preparation of any list of workers who had participated in the work stoppage. He went to his office and at noon he received a call from his immediate superior, the Regional Manager, who asked him to provide the names of all persons who had not worked that day, since the national Executive Director for electric distribution had requested such information. He informed his boss that it was very difficult to gather such information, that the work stoppage had been called off and that "all the workers, practically," were back on their jobs. The other heads of the company in which he worked prepared the list of the workers who had participated in the stoppage arbitrarily, since there was no real proof to determine whether any worker had worked or not. Massive dismissals of workers started on December 10, 1990, and they were based on the

organisation of, participation in, and implementation of an illegal work stoppage associated with a military uprising, such acts intended to subvert the constitutional order of the country. Such basis was false. He was dismissed pursuant to Law 25. He was notified on December 10, 1990, when his immediate superior, the Regional Manager, informed him that he had a note whereby his contract was declared non subsistent. He did not have access to justice, and he was able only to use the recourses allowed him by Law 25. He presented an appeal before the authority that had dismissed him, by means of a reconsideration remedy, and it was rejected. Later it was requested that Law 25 be regarded unconstitutional, but it was determined that it was constitutional. He presented an appeal before the administrative conflicts jurisdiction, but the appeal was rejected on the grounds that the claim was based on Law 25, which was not illegal. The reconsideration action before the same authority at the IRHE, and the action before the administrative conflicts jurisdiction before the Supreme Court were filed collectively. Only the evidence items submitted with the action brought, which were in written form were presented. No testimonial evidence was presented in any of the cases. He did not have access to the record. He knew about many pieces of evidence that were submitted with the action brought, but he did not see the evidence presented to assert that he had taken part in an illegal work stoppage. He was not reinstated into his position. The relations that the workers and the workers unions of the state enterprises in Panama maintained with the members of the Public Force during his working years were not tense. The workers only tried to maintain, through the labour struggles, the benefits that they had been able to obtain.

g. Expert testimony of attorney-at-law Humberto Ricord, a specialist in labour and constitutional law

He has been a lawyer since 1945. He has been a professor at the School of Law of Panama's National University for 35 years, and an active attorney-at-law from 1948 to the present. He has been the complainant in many complaints of unconstitutionality since 1948. He is the author of certain booklets on constitutional law and labour law, and of some legal works of varied content. The right of public servants to demonstrate publicly, subject to compliance with legal requirements, such as the delivery of public notice 24 hours in advance, does exist, and is established by the Constitution of Panama in broad terms, without distinction among persons of certain qualities, that is, whether they are workers or private citizens in general. There is not a penal law in Panama whereby either the strike or the work stoppage in public services is regarded an offence. The Government did not decree a state of emergency, nor did it suspend the constitutional guarantees on the occasion of the December 4 and 5, 1990 incidents. Law 25 of December 14, 1990, affected the right to stability on the job of public servants, which is stipulated constitutionally, as well as the guarantee of a given jurisdiction and the right to join labour unions concerning their general practice, since the Panamanian laws and Constitution recognise certain rights and guarantees of labour unions and their members, which were undoubtedly affected by this law. The May 23, 1991, judgment of the Supreme Court is a decision that falls outside Panamanian law and the very provisions of the Supreme Court itself concerning the rights of public servants and workers. The problem of non-retroactivity, which is governed by Article 31 of the Constitution, was put forth to the Supreme Court, which deemed that there was no unconstitutionality in the non-retroactivity of Law 25, and that there was no violation of Article 31. The Supreme Court eluded the application of Article 31 of the Constitution on the fallacious grounds that such Article contained only penal judicial guarantees,

but not guarantees for those under the law. For the witness, said Article contains both, penal and administrative guarantees. The first article of Law 25 says that those public employees who took part (the verb being used in the past tense), who carried out any activities with respect to the incidents that occurred in Panama, especially on December 4 and 5, 1990, must be punished with dismissal. It is evidently a completely retroactive text. By constitutional provision, the retroactivity of public order laws is permitted. It is very difficult to determine what the public order is. In his opinion, public order is the set of institutions and legal rules that refer to various aspects of State or private life. Article 43 of the Constitution is the generic rule on the subject of non-retroactivity of the law. Non-retroactivity and the penal guarantee prevail in Article 31; Article 43, however, permits retroactivity. In a "paragraph" of Article 2 of Law 25 it is established that they law should be complemented by the Cabinet Council, which was granted de power to determine which facts may be subject to the dismissal sanction. The law referred to actions such as attempts against democracy and the constitutional order, but it did not establish which those actions were, the determination thereof being delegated on the Cabinet Council. The Cabinet Council made such determination on January 23, 1999, improving the law, which was of a generic nature and which did not identify typical conducts. Said Council declared that collective and abrupt work stoppages in the public sector attempted against democracy and the constitutional order, and it established that all public servants who would have promoted, convoked, organised, participated in, or who would in the future promote, convoke, organise, etc., work stoppages without complying with the established procedures and restrictions would be subject to dismissal for cause. The Supreme Court declared constitutional the "paragraph" of Article 2 of Law 25 . Article 2 is so related to the nature of the fault that it would be impossible to apply the law outside the requirement that the Cabinet Council determine the typical conduct. There was no possibility to punish a worker without taking into consideration this typical element. However, dismissals were ordered before the Cabinet Council proceeded to determine the conduct pursuant to Resolution N° 10 of January 23, 1991, published in the Official Gazette on February 4, 1991. The Supreme Court felt that the granting of powers to the Cabinet Council to point out actions that attempted against democracy and the Constitution was unconstitutional, since such powers belonged to the judicial branch. This posed the serious problem of doubt being cast upon certain dismissal decisions when the question arose of what value could a law have when the Supreme Court is saying that the power to establish the typical punishable conduct is not legally founded? These workers had certain guarantees in their performance as State staff members, which were derogated by articles 4 and 5 of Law 25, as it established that such guarantees would not be applicable when found contrary to it. One of the final articles of Law 25 established that it would be valid until December 31, 1991, that is, that it was of temporary validity. This created a legal problem in that it was not known what would happen to the guarantees and laws reformed by Law 25 upon the expiration of its validity pursuant to its own mandate. In administrative conflicts proceedings the parties have the right to present evidence not yet presented or requested in the different administrative instances of the case. In 1990 and before the entering into force of the Administrative Career Law, public servants and Central Government workers facing a dismissal followed the regular administrative procedure. It consisted of the reconsideration recourse before the authority that had decreed the dismissal, except in the case that some special law would have granted competence to a head of a department. Once the administrative means were exhausted, the worker could use the administrative conflicts jurisdiction before the Third Section of the Supreme Court. Some of the persons affected by the dismissal judgments filed actions before the administrative conflicts

jurisdiction, that is, the Third Section of the Supreme Court, which rejected the legality of all such actions. Since 1972 the Third Administrative Conflicts Section of the Supreme Court was acting as a Labour Cassation Court. Therefore, with a law declared mostly constitutional, and with decisions of the Supreme Court itself at its Administrative Conflicts Section, which affirmed that Law 25 was not illegal in the least, it is difficult to find a remedy to repair such decisions in Panamanian domestic law. The only possibility has been the international recourse. In Panama, certain administrative employees of the Central Government are under special systems. Ever since the adoption of the 1946 Constitution, an administrative career provided for by the Constitution has been in existence. There are employees of State enterprises and autonomous institutions that enjoy guarantees that are provided for in the Labour Code, even without being qualified as administrative employees, because the law that created entities such as the INTEL, the IRHE, and others mentioned in the complaint, stipulate that their rights shall be those established in the Labour Code. In Panama, normally the President of the Republic, with the signature of the respective State Minister, makes the appointments and decrees the dismissals. However Article 295 of the Constitution establishes that the appointment and removal of public employees shall not depend on the absolute and discretional power of any one authority, except for some exceptions established in it. This Article adds that public servants are governed by the system of merit and stability in their positions, and that their permanence on the job is subject to their competence, loyalty and morality in service. Said constitutional provision was in force at the time that the events of this case occurred. It is not possible to maintain in Panama that there is no administrative career, while there are articles of the Constitution such as Article 295. Concerning acquired rights, in Panamanian public law it is considered that, after compliance with all legal requirements, vacation is a right acquired by all those who work at the service of the State. In Panama, General Torrijos, who named all State servants, eliminated the distinction between public officials and public employees.Not only is it not possible to renounce personally the rights granted by the Constitution, but also it is not possible for a law to change them, since a law would be unconstitutional if it eliminated a right recognised by the Constitution. Law 9 of 1994 is the general law of the administrative career and it was regulated in 1997. Some times the administrative career is not regulated, and the Panamanian courts have had to fill the gaps thereby generated by applying analogous laws, since it is not possible not to comply with a constitutionally established right for absence of a law that will regulate it. Concerning the validity and applicability of international law, before the May 23, 1991, judgment of the Supreme Court, on the request for the unconstitutionality of Law 25, three judgments were handed down that admitted expressly the application of international law, especially on the subject of individual guarantees, judicial guarantees, etc. In the first one of those judgments, of July 24, 1990, the Supreme Court pointed out that some rules of international law could become a part of the constitutionality block, to the extent that they did not contradict the basic principles of the rule of law and of the institutions that support national independence and the self determination of the Panamanian State. The situation analysed in that judgment is of a general nature, but there are other judgments that refer specifically to the American Convention. In a November 8, 1990, judgment, the Supreme Court pointed out that Article 8 of the American Convention brings together a constitutionality block with Article 32 of the Constitution, to the extent that it refers to the constitutional guarantee of a fair proceeding or due process. The third judgment was handed down by the Supreme Court on March 19, 1991. In it, Article 8 of the Convention is regarded applicable in Panama as a right of constitutional hierarchy, which led to the declaration of unconstitutionality of acts and of a law that violated

directly the provisions of the Convention. Later, in a judgment of November 23, 1995, the Supreme Court declared unconstitutional one part of Article 775 of the Family Code for violation of Article 8 of the American Convention. Before and after the already mentioned May 23, 1991, judgment, the Supreme Court had maintained the applicability of international law.

h. Statement of Guillermo Endara-Galimany, President of the Republic of Panama from December 20, 1989, to August 31, 1994

He took office under very difficult circumstances, and his immediate concern was to re-establish the Constitution of the nation, the Judicial Branch, and the Legislative Branch. To such effect, he as the President, and the two Vice Presidents, signed a decree towards the expeditious reestablishment of the constitutional order. His first mission was to establish democracy, human rights, and liberties. He felt that democracy could and should be defended by granting constitutional guarantees to all inhabitants of the Republic of Panama equally, and with support by most of his Cabinet, he did not, under any circumstances, accept to suspend constitutional guarantees. The Defence Forces disappeared on the occasion of the North American invasion, and he made the decision to create a National Police force to replace them. He committed the mistake of selecting colonel Eduardo Herrera-Hassán as Chief of the National Police, since it was foreseeable that problems would arise; he had proven that he believed in the militaristic system that had prevailed before, and in which he had prepared himself. He dismissed colonel Herrera-Hassán because he did not accept for the Police to be subject to civilian authorities. After his dismissal, colonel Herrera-Hassán was investigated and detained by the competent authorities, since he devoted himself to conspiring against the constitutional order towards the prevalence of militaristic interests. He established a presidential guard, which would be the focus of resistance of any subversive movement, for which reason he was careful to see to it that no police personnel were among its members, as it had been traditionally the case. Before the December 4 and 5, 1990, events, he participated in the negotiating process with the workers unions. Against the best opinion of almost all his Ministers, he wished to participate directly in it. He realised that the petition of the workers had been prepared so as not to arrive at any agreement at all, since only one or two requests could be negotiated and granted. He had intelligence officials of his Government infiltrate themselves among the workers, who invited them to participate in colonel Herrera-Hassán's conspiracy. The labour union leaders brought one of the infiltrated agents to said colonel, who gave him details on the movement that he was planning against the constitutional system, democracy, and liberties. He resolved to request the North American intervention to save democracy. The Government learned through the media about the convocation issued by the Co-ordinating Organisation of State Enterprise Workers Unions to the State workers, urging them to participate in a march scheduled for December 4, 1990, and in a work stoppage to be held the following day. There was an extremely obvious coincidence between colonel Herrera-Hassán's subversive movement, and the workers union's actions. Vice President Ford, who was the Minister of Planning and President of one of the institutions that were calling a strike, expressed, in a well-known public statement that was criticised by the labour sectors, that they would dismiss anyone who would participate in the strike. There was no procedure in Panama to request a declaration of illegality of a strike, but the strike scheduled for December 5, 1990, was definitely an illegal strike that was so declared on several occasions by his Government, and especially by Vice President Ford. The action of the Government, that is, the adoption of Law 25, did not violate any right of the Panamanians. Those

affected were afforded a due process before the pre-established competent authorities and the only change made was to keep him and the Minister of Labour from the temptation of intervening in the Conciliation Boards, since he had the power to do so. The Third Section of the Supreme Court was granted competence, since it is the highest pre-established authority in labour matters. As to the first draft bill that authorised the dismissal of those public servants who would have taken part in the conspiracy movement through the work stoppage, his greatest concern were the guarantees that they were going to be granted to revise their cases. Law 8, which gave the public employees of the INTEL and the IRHE the right to appear before the Conciliation and Decision Boards, was in force at that moment. The rest of public employees did not have that right. He feels that it was not a guarantee, since the Conciliation and Decision Board is not an autonomous organisation, but a part of the Ministry of Labour, and the Ministry of Labour has a lot of influence or could have a lot of influence on his decisions, and the President of the Republic, in turn, through the Minister of Labour, could have the temptation of handling such trials against the workers. It was of basic importance for the workers to arrive at the highest court of Panama on labour matters, which was the Third Section of the Supreme Court. It was also of basic importance to give them, in addition to the appropriate administrative remedies, which were those of reconsideration and appeal, an administrative conflicts labour cassation remedy as, in fact, was accomplished through Law 25. Numerous cases were reconsidered. Of his personal interest were some cases where he succeeded in having some staff members reinstated; in other cases he confirmed that there was guilt on the part of those dismissed, since they encouraged the general work stoppage that intended to accomplish a coup d'état. During his government nobody was ever dismissed for attending a public demonstration, but the cases that were examined for dismissal purposes were those of persons who promoted the stoppage. Those who went to the gates of the Ministries, of the governmental agencies, and tried to keep the workers from going to work, that is, those who performed specific physical acts to go on strike, were dismissed. He has no knowledge of which dismissals were made before the passing of Law 25. He wanted to wait for the entering into force of Law 25 to proceed with the dismissals, but there were cases, very few cases, that preceded Law 25, and he believes that Law 25 itself provided for such dismissals. On May 23, 1991 the Supreme Court of Panama declared the unconstitutionality of the "paragraph" of Article 2 of said Law, which empowered the Cabinet Council to determine whether the actions of the staff members were contrary to democracy and the constitutional order, in order to apply the dismissal sanctions. This provision, which was declared unconstitutional, was never used. Although for him the cited "paragraph" was constitutional, he always abided by the decision of the Supreme Court. The Prosecutorial Agency did not start formally an investigation against the members of the workers movement who took part in the organisation of the march and the work stoppage that coincided with the military uprising of colonel Eduardo Herrera-Hassán, despite the fact that the Government had proof that it was part of the same conspiracy. In Panama there is dismissal, which is a decision of the employer, and later the trial that relates to the dismissal, and there is the penal action as a separate thing. The practice in Panama is that after a justified dismissal there is no reason to pursue the worker and put him in jail. He withdrew his attention from the matter after the solving of the immediate problem of the possibility for these coups to continue successively. He had no interest in the permanence in jail of those dismissed workers who were no longer a major threat against democracy.

i. Statement of Guillermo Alfredo Ford-Boyd, Vice President of the Republic of Panama during the government of President Guillermo Endara-Galimany

Beginning in the early morning of December 20, 1989, and as a consequence of the invasion by the United States of America, they took over the constitutional power, since they won the elections in the Republic of Panama. At that time his country was in a chaotic situation as a result of the extended crisis, and what was most important was to consolidate democracy and defend it according to what was established by the Constitution of the Republic of Panama. The Legislative Assembly was established since the month of March 1990. One of the most difficult situations that they had to face was the creation of a new public force capable of restoring order in the Republic of Panama, since they could not improvise new officers that would join it, and they totally and absolutely mistrusted the former members of the military who had just been defeated. During the initial stage colonel Herrera-Hassán earned the respect of President Guillermo Endara-Galimany. However, since very early they started to suspect that he wanted to emulate certain figures of the previous dictatorship by making room within the national scene and even wanting to demand that the Government respect such space of his as a member of the Public Force. As a result of the dismissal of colonel Herrera-Hassán as the head of such Force, they started to notice certain acts of rebellion on his part. He was later tried, convicted, and apprehended. The purpose of the movement led by colonel Herrera-Hassán pointed to the overthrowing of President Endara-Galimany, the alteration of the constitutional order, and the suppression of all the democratic institutions of the country. In mid 1990, labour union groups organised themselves in the form of a national co-ordinating organisation that included the most important labour sectors of the State apparatus, submitted a petition that was preposterous given the historical moment that the country was going through. Several months before December, in his capacity as Vice President of the Republic and Minister of Planning, he expressed publicly to the employees that they were exposing themselves to the risk of being dismissed, since they were, through such petition, setting a stumbling block to the return to democracy. Everything seemed to indicate the construction of a movement that would progress in crescendo to accomplish an objective then unknown to them. After the submission of the petition, the workers unions announced a great national march that was a success. Everything continued to coincide with the information they were receiving about colonel Herrera-Hassán. Pressure built up among the population and other labour union groups gradually joined the movement. Their attention was very much drawn to the fact that they announced so much in advance a general work stoppage for December 5, 1990, precisely the day on which the military uprising occurred, with the escape of colonel Herrera-Hassán. On December 4, 1990, the latter took the main fort at Ancón after being rescued by helicopter, such actions being witnessed by members of the National Police in total passiveness. The connection between the labour movement and the military uprising was evident. He had no doubt that it was a perfectly clear and premeditated act, since the following day, after colonel Herrera-Hassán's attempt had already failed at nine thirty in the morning, the stoppage started to subside. The specific evidence that the Government had of the connection between colonel Herrera-Hassán's action and the march and strike of December 4 and 5, 1990, were the telephone calls where certain leaders were asked whether the labour union movement accompanied colonel Herrera-Hassán in his coup d'état attempt. The Government knew that the march and the stoppage were going to take place, but it did not take steps to stop them, because this would have been a typical dictatorial behaviour. His Government did not repress marches, but instead it permitted the workers to protest publicly for their genuine rights and aspirations. At

that time there were persons who called the President and him urging the suspension of constitutional guarantees because of the seriousness of the events, but President Endara-Galimany and he opposed the suggestion since they wanted to continue consolidating democracy. When the draft bill of Law 25 was submitted, he was given assurances that it was a law that complied with all constitutional requirements. Said draft was submitted to the legislative body, which is totally independent from the executive. The judgment of the Supreme Court that declared the "paragraph" of Article 2 of Law 25 unconstitutional was strictly complied with. For purposes of the dismissals of 270 persons in compliance with Law 25, the heads of the State's autonomous and semi-autonomous institutions were empowered to make the evaluations and determine who should be dismissed. The power to hire freely or to dismiss freely belonged to each one of the directors of those institutions. In face of the workers' actions, all steps were taken within the framework of the law and the dismissed staff members enjoyed all guarantees required to have access to the courts. He does not remember any dismissals before the entering into force of Law 25 for acts related to the demonstration and the work stoppage of December 4 and 5, 1990. He advocates freedom of expression so long as it is done with seriousness and discipline, and it does not affect the rights of other third parties. He expressed his appreciation for the impartiality of the Court.

j. Statement of Carlos Lucas López-Tejada, Chief Justice of the Supreme Court of the Republic of Panama from December 1990 to 1994

He was appointed Justice during the first days of January 1990, shortly after the fall of general Noriega's regime. He was designated Chief Justice at the first session of the Supreme Court. In December 1990 said Court was comprised of nine Justices. To date, the Constitutional Section consists of the full Supreme Court; it is comprised of all Justices of the different sections, that is, the civil, the administrative conflicts, and the penal sections, and it is responsible for the constitutional jurisdictional control as the guardian of the Constitution, through the remedies of unconstitutionality and of warning of unconstitutionality in a given proceeding, and as a court of appeals, or pertinent court for the protection of constitutional guarantees, although the latter two may be also heard by the Circuit judges, by the Superior Court, and by the Court of Appeals, as the case may be. The first unconstitutionality action was filed some days after the formulation and promulgation of Law 25. Two more were filed later. The complaints were accumulated and a substantiating Justice was designated. Initially it was doctor Rodrigo Molina, and later doctor César Quintero. The complaint was processed regularly, but efforts were made to give it priority since it involved many persons. As compared to other unconstitutionality complaints, this action was dealt with expeditiously and quickly, taking into account that the judgment was handed down in May, 1991. According to the judgment handed down on this occasion, Law 25 was not unconstitutional, although the "paragraph" of Article 2, which empowered the Cabinet Council to make a certain qualification was. In this case, the Supreme Court found that the "paragraph" violated mainly section 2 of Article 203 of the Constitution, which empowered the Third Administrative Conflicts Section of the Supreme Court to examine the legality of acts. Two aspects of this "paragraph" were unconstitutional: the first one was that the Cabinet Council was given regulatory power when in fact, in the Executive Branch such power belongs to the President and the pertinent Minister; the second one was that it empowered the Third Section of the Supreme Court to act as an administrative conflicts court. When the full Supreme Court of Panama resolved the unconstitutionality complaint against Law 25 of 1990, it did not pronounce

itself concerning the situation of the public servants dismissed in application of the law because, according to the legislation, the constitutional proceeding is purely of law and what is determined is whether in the confrontation between the rule and the act regarded unconstitutional there is some violation of the constitutional rules. Several factors were taken into account in the judgment for purposes of guaranteeing the due process. In the first place, that it was not a penal case, but a case where the appointing authority was given the possibility to terminate or declare non subsistent the appointment of a given public servant. Secondly, that it referred to employees not included into the administrative career. For the Justices it was a problem that involved disciplinary law, since there was a very clear distinction between penal guarantees, and the guarantees that related to a disciplinary proceeding. He feels that if in this case the resolution of the Cabinet Council would have been applied as a basis for some dismissal decision, the unconstitutionality of the resolution could have been alleged in a warning of unconstitutionality made by the attorney of the affected party. In this case the official to whom the warning would have been presented would have been obliged to consult the Supreme Court, in order for it to instruct, if it deemed that it was unconstitutional, its non application in the case. However, this was not done. In accordance with the impugnation system established by Law 25, the dismissed workers who were not in agreement with the action taken had the possibility to use the administrative mechanism through the administrative remedies of reconsideration and appeal, leaving the administrative conflicts jurisdiction open. The full jurisdiction administrative conflicts mechanism requires the filing of the complaint by the affected party; the transfer thereof to the same authority that performed the original action, in this case the official who ordered the dismissal; the transfer to the Attorney General of the Administration in defence of the legal order; and upon conclusion of this stage, or as part of the same process, the opening of the case to be proven, once the complaint is responded to by the authority who performed the contested action. He believes that five days are allowed for the parties to announce or to cite the evidence that they deem appropriate, including new evidence if they so desire. Upon conclusion of this stage to cite evidence, 30 days are allowed to produce it. The Third Administrative Conflicts Section of the Supreme Court existed since before December 1990, and it also acts as the Labour Cassation Court of Panama. He was not a member of the Third Administrative Conflicts Section of the Supreme Court, and therefore he was unable to hear cases where dismissal actions were contested in the administrative conflicts jurisdiction. While he was the Chief Justice, the full Supreme Court received constitutional guarantee protection remedies aimed against resolutions of the Conciliation and Decision Boards, which flatly rejected reinstatement actions proposed by public servants of the IRHE and the INTEL dismissed in application of Law 25. He had to be the reporter in a civil rights protection remedy action where the worker asserted that he had gone to the Conciliation and Decision Board and that it had rejected his action in limine without having taken it into consideration. The Supreme Court resolved to admit this civil rights protection remedy action and to order the Conciliation and Decision Board to take the action into consideration and to decide on its own competence after hearing the party affected. During his performance as Supreme Court Justice, he participated in the deliberation of judgments where international treaties were cited as law in force in Panama, as part of the constitutionality block. This doctrine was an effort that they made as members of a Supreme Court that was initiated amidst great many difficulties. A group of Supreme Court Justices had an interest in reconciling internal law with inter-American law. The constitutionality block doctrine became consolidated and is now very frequently applied by the Supreme Court. In the unconstitutionality judgment on Law 25 handed down on April 23, 1991, no reference was

made to the unconstitutionality block; however, they examined the possible violation of some articles of the San Jose Pact.

k. Statement of Jorge de-la-Guardia, Director General of the IRHE between December 1989 and April 1991

The Water Resources and Electric Power Institute was the agency responsible, at the time of the events, for the generation, transmission and distribution of electric power throughout the country. He worked at said Institute from November 1970 to August 1988. He worked practically everywhere in the country building hydroelectric plants, and was head of several directorates within the IRHE. On December 22, 1989, President Endara-Galimany asked him to take charge of the IRHE, of which he was Director until April 1991. Before October 1990, movements were started within the IRHE to gain a number of benefits. In October 1990 the movement, which was a part of the IRHE, was already being supported by movements from other institutions such as the INTEL, the IDAAN, etc. Upon learning about the national work stoppage announced for December 5, 1990, they summoned the entire middle management of the IRHE and informed it that the work stoppage being scheduled was illegal and that disciplinary sanctions were going to be imposed if it did take place. At the same time, a notice and a circular note were sent to all the personnel of the IRHE to inform it that the work stoppage was illegal, and that the day for which the stoppage was scheduled was regarded as a normal working day. On December 5, 1990, the previously announced collective work stoppage took place. In spite of the warning made to them, a considerable number of workers did not come to work and some work sites closed completely. Between 10 and 20 per cent of IRHE staff members did not work that day. The activities of the Institute were not placed at serious risk, since personnel that was totally trustworthy to the directors was assigned to take charge of each of the areas, thus preventing a power outage or any other incident of this type. At a given moment the Minister of Labour made a public statement declaring the work stoppage illegal. After the start of the stoppage, its organisers never announced publicly that they had decided to terminate it. At some work sites the personnel started to go back to work the same day, December 5, and later, the following day, practically everything had gone back to normal. He does not remember the exact time that the workers started to go back to work, but it could have been in the afternoon. By November, 1990 the IRHE had approximately 5,000 employees who, for the most part, were members of the IRHE Workers Union. While the work stoppage was in progress, the workers of the institution had knowledge of the development of colonel Eduardo Herrera-Hassán's military uprising, and of the outcome of his December 5, 1990, attempted coup. Everybody knew what was happening, since information on the events was being aired over the radio and television since the evening of the previous day. An extreme emergency situation prevailed in Panama in December, 1990, which placed democracy and the very existence of the State in danger, and which justified the dismissal of the IRHE workers and the application of Law 25. Proof of this is that the stoppage, which placed the national electrical system in danger, coincided with the escape of colonel Herrera-Hassán. Approximately 150 IRHE workers were dismissed in the first instance because of the application of Law 25 of 1990. He signed the dismissal notices. The grounds for dismissal was their participation in an illegal work stoppage. A process of selection of the workers who had been dismissed was conducted at the IRHE. Meetings were held among supervisors, section chiefs, and department heads to establish who were the employees who had not gone to work that day, who had organised the stoppage, and who had urged the others to participate. They

were not interested in beheading the institution, especially in view of all that it had had to suffer during the military rule. What they did was to look for the persons who had participated the most in the organisation and in inciting workmates to participate. The background of the employee was regarded as a mitigating factor in order not to apply disciplinary sanctions, thus minimising what could be applied as a disciplinary sanction. He does not know whether the IRHE internal by-laws were applied; there were a number of regulations applicable for faults committed at the IRHE, but there was also the option to impose severe sanctions immediately, depending on the seriousness of the offence or misdemeanour committed by the employee. The participation of the workers in the stoppage was proven on the basis of their actions during the periods that preceded the stoppage. As head of the Institute he was issued instructions on how to proceed in relationship to the dismissals. The President, who said publicly that all those persons who had been participating in the work stoppage would be dismissed, issued the instructions. They acted somewhat discretionally. A number of reinstatement applications were submitted; however, he did not process them personally. All reconsideration remedies that were filed by those affected were forwarded to the institution's Administrative and Legal Directorate in order for it to carry out the corresponding investigations. Approximately 15 were reinstated. All the workers could file a reconsideration application.

l. Statement of Marta de-León-de-Bermúdez, a staff member of the INTEL, currently named Cable and Wireless Panama, S.A.

From June, 1995 to May 29, 1997, on which date it became the Cable and Wireless Panama, S.A., company, she worked at the National Telecommunications Institute. In this company, where she still works, she holds the position of Legal Services and Government Relations Director. The reason that led to the dismissal of INTEL workers after December 5, 1990, was the holding of a work stoppage that had been announced since approximately November 18, 1990. Either coincidentally or incidentally, certain acts occurred which attempted against the sovereignty and democracy of the Republic of Panama. As to proof of ties between each of the dismissed workers and a conspiracy to subvert the constitutional order, the dismissal letters signed by the company's General Manager were based on information that he could have had at that time. There is no proof of whether or not the pertinent authority at the INTEL sent information to the Prosecutorial Agency to process the respective penal accusations for the offence of sedition and rebellion defined in the Panamanian Penal Code. Employer-employee relations at the INTEL were not governed by the Labour Code, but by Law 8 of 1975. Within the framework of Law 8, repetitive absence or abrupt absence from the work site was a cause for dismissal. One single fault is not a cause for dismissal. As a representative of the company, the General Manager has the power to hire and dismiss workers. The dismissals of INTEL workers prior to the passing of Law 25 were made pursuant to Law 8 of 1975, which establishes the possibility of dismissal and permits the workers to file remedies through the labour jurisdiction. She does not remember whether the dismissed workers went to the labour jurisdiction, but she does remember that the workers dismissed prior to the passing of Law 25 filed reconsideration remedies before the General Manager and appeals as subsidiary actions. A proceeding is not necessarily required prior to the dismissal decision when the fault is serious and a cause for dismissal is applied. All of them had the opportunity to express their positions through the reconsideration remedy. By virtue of the remedies filed for the dismissals made before and after Law 25, nearly 15 workers were reinstated. All the cases were processed, including those which

did not result in a reinstatement. The workers had the possibility to appeal later before the Executive Committee, which was the company's Board of Directors. All workers who were not reinstated in 1990 and 1991 were offered jobs in September 1994, for humanitarian reasons by the Government of President Pérez-Valladares. Almost all of them went back to the company, except for a few who were employed at that time. When privatisation took place all workers at the INTEL were laid off. Pursuant to Law 5 of 1995, all the workers were offered two alternatives under the privatisation process: "to continue carrying forward their employment liability and accumulating years of service," or to apply for a liquidation and "enter into a new work contract." Most of the workers, among whom she includes herself, applied for a liquidation to enter later into a new work contract under the same conditions. Less than 10 persons did not apply for this benefit. According to what was established by Article 26 of Law 5 of 1995, and as established by the Labour Code, the seniority premium, vacation due, and contract termination indemnification were recognised. Not always was an indemnification required for termination of the employer-employee relationship; in this case this was done because it was established in Law 5. Salaries not received from the dismissal to reinstatement in the company, were not paid to the workers dismissed by virtue of Law 25, who were reinstated at the INTEL in September, 1994. Indemnification for damages from the application of Law 25 was not paid to the workers dismissed by the application of said Law. No indemnification whatsoever had to be paid.

m. Report of the expert Maruja Bravo-Dutary, an attorney-at-law specialising in labour law

In 1986 she started working at the Panamanian Labour Studies Institute within the Ministry of Labour, currently the Ministry of Labour Development. She became later Director and Chairperson of the N° 1 Conciliation and Decision Board. Approximately in 1988 she was appointed Secretary General of the Ministry of Labour and, while in that position, she was acting Vice Minister on several occasions. In 1989 she became first acting Vice Minister. She has later devoted herself to her private law practice, and has been an advisor on labour matters for approximately nine years. She obtained a degree in Law and Political Science at the University of Panama in 1985. She did specialisation studies in penal law at Colombia's External University, and has attended postgraduate seminars and courses at the University of Costa Rica; she has been a college professor at the Penal Law Chair of National University, and at the Business Law Chair of the Technological University. Pursuant to Law 8, which applied to IRHE and INTEL workers prior to the passing of Law 25, the corresponding judicial mechanism was the special labour jurisdiction. Mediation and oral proceedings are principles of labour justice. At the administrative conflicts level the system is a mixed one: one part is conducted in written form, another part orally under governing principles of procedural economy. There are also coinciding principles in both jurisdictions. In conformity with Law 8, the procedure applicable to workers who have been the object of a disciplinary sanction such as reprimand and suspension established that the former had the right to present their complaints before the Sectoral Committee, and then the right to appeal before the Manager of the institution. Public servants who were not governed by a special law had at their disposal, before December 14, 1990, the reconsideration remedy to be presented before the same office that issued the resolution of the act being questioned, and the appeal remedy to be presented before the immediate superior. The use thereof exhausted the means available within the governmental realm, for which reason the next step was the Third Administrative Conflicts Section of the Supreme Court, which is the administrative conflicts jurisdiction, where a revision of the administrative act may be requested

for violation of the law or for whichever fact that may be contested. Law 8 of February 25, 1975, established that, in the event of unjustified dismissal, the workers had the right to go before the Conciliation and Decision Boards and to bring action for the dismissal, while requesting either their reinstatement, or the payment of indemnification, in both cases together with the payment of unpaid salaries. This type of court was created in Panama pursuant to Law 7, of February 25, 1975, and they are quite anti-formalistic courts that solved the problems that could arise in labour relations. The Conciliation and Decision Boards are tripartite courts, which had to be comprised of one representative of the workers, one representative of the employers, and one governmental representative. The important thing is that these courts are comprised of lay judges, that is, judges without any technical law education. The only legal requirement was for them to be 25 or over, and not to have been convicted for any offence; in other words, they had to be fully able and in exercise of their citizen rights. The workers' representatives are required to have worked in a private company at least for the nine months that precede their appointment on the court, and the employers' representatives are selected from the lists provided by the corporate organisation that represents them. In the case of the workers, the Ministry of Labour pays their salaries. The same applies to the governmental official, since the Ministry of Labour appoints her or him. The Conciliation and Decision Boards are part of the special labour jurisdiction, even when the budget on which they operate is actually not incorporated into the judicial branch, but into the Ministry of Labour. This has always created a troublesome situation for the existence of the Boards and the management thereof. One of her purposes as Director of the Boards was to try to detach them to a certain degree, as jurisdictional courts, from the administrative bounds of the Ministry of Labour. In principle, they were single instance courts with no recourse applicable against their decisions, but in the face of the situations prevailing and of convictions deemed arbitrary, the possibility to appeal judgments before the Superior Labour Court was established through Law 1 of 1986. If the Superior Court hears in the second instance a case that was conducted at the level of the Conciliation and Decision Boards, its judgment would be final and regarded as of last instance. However if, in the second instance, the Superior Court hears a case from the sectional labour courts which also belong to the special labour jurisdiction, in some cases cassation on labour matters shall apply, which would be processed before the Third Section of the Supreme Court. The decisions of the Superior Labour Court, which revise those of the Conciliation and Decision Boards, may reach the full Supreme Court, but in a very conditioned way: through the constitutional rights protection remedy. Within the governmental realm, at the time that a reconsideration remedy is filed, the attachment of evidence in support of the arguments set forth or of the reason why the revision of the act being questioned is being requested, is admitted. Upon conclusion of the evidence examination term, which should not last less than 10 nor more than 20 days, there is a period for allegations, which must be submitted in written form and backed by the parties on the basis of the analysis of the evidence produced and what is claimed. New, different, or additional evidence other than that presented at governmental level may be presented within the administrative conflicts jurisdiction proceedings. The governmental mechanism is exhausted when reconsideration and appeal remedies are filed with the authorities responsible for the administrative action, or in the event that there is administrative silence. The case before the Third Section of the Supreme Court in the administrative conflicts jurisdiction must be admitted, unless there is some element which would, because of formality considerations, warrant a correction. Within a term of five days, the Section issues a resolution whereby the matter is transferred to the Prosecutorial Agency for the submission of its report on the claims established in the action. In this process, which definitely

provides for all stages of the due process according to the Constitution and the law, there is also a term for arguments. Practically all actions during this stage are in written form, and they provide for the right to be heard by a competent court established prior to the action deemed arbitrary or illegal, and comprised of qualified, competent, impartial and independent judges. The Justices of the Supreme Court constitute the highest authority in actions of all types; they work with absolute independence and impartiality, and are well-renowned persons. In Panama any disciplinary system must be founded on internal regulations. Private companies with more than two workers must have internal regulations where the working conditions are established, as well as, among other things, the disciplinary sanctions that can be applied to workers. Concerning public servants, there are different institutions in Panama, some are autonomous, some are not, where, for the most part, internal regulations governed by the provisions of the Administrative Code for as long as the administrative career did not exist, were established. Normally, disciplinary sanctions established in the regulations in general, both for public servants, and for private enterprise workers, consist of verbal reprimand, written reprimand, suspension, and termination of the working relationship. In the field of the public servants of state enterprises which would have special laws, such as the IRHE and the INTEL, they would be governed by what was established by Law 8 of 1975, and by what the internal regulations of each enterprise established. According to Law 8, the justified causes that empower the employer to terminate the working relationship are many and very much like those established by the Labour Code. Among them are: lack of integrity, abrupt abandonment of the job, reiterated reluctance of the worker to comply with the service agreed upon, criminal behaviour, and immoral behaviour. According to Law 8, one single unjustified absence does not constitute a justified cause to terminate the working relationship. There is the right to dismiss for two absences on two Mondays within a term of one month, six days within a term of one year, and three consecutive days. In Panamanian legislation, with total independence from Law 25, there is not one single case where one unjustified absence would be a cause for dismissal. Article 70 of the Constitution of Panama provides that no worker may be dismissed without a fair cause and without the formalities that the law establishes. Concerning the other workers of public companies, at present the Administrative Career Law, passed in 1994, and the regulations of said career, passed in 1997, govern their working relations. Before this they had no regulations, and for this reason the Supreme Court had indicated that said workers could be freely appointed and dismissed. In her opinion, what could be applied during the period when there was no administrative career were the Administrative Code and the organic law for the constitution of the respective institution. Article 5 of Law 25 changes Law 8 of February 25, 1975, and Laws 34, 38, 39, and 40 of 1979, in those aspects found contrary to it. Concerning the Ministry of Public Works, it has its organic law, and the Labour Code is not applicable to its public servants either. In 1990, the Administrative Code, its organic law, which is the law that created it, and its internal regulations, were applicable to them. She cannot say for sure whether the Administrative Code contains provisions on stability on the job, termination of contract, or dismissal of the worker. What has occurred in the periods during which the workers are not protected by an administrative career, is that, since they can be freely appointed and dismissed, their contracts have been declared non subsistent. At the level of both, the public servants, and the Labour Code, the formality to which the law refers concerning dismissal is that this be done by means of a written notice with an indication of the reason that led to the dismissal, and the date of the situation. There was no deterioration of the judicial guarantees of the workers by virtue of Law 25. At the level of both, the Conciliation and Decision Boards, and the administrative conflicts

jurisdiction, all guarantees are ensured. The only difference is that at the level of the Conciliation and Decision Boards the proceedings are mostly verbal, while at the level of the Third Section of the Supreme Court the proceedings of the administrative conflicts jurisdiction are rather conducted in written form; all the same, nevertheless, they are impartial courts, and the quality of the judicial officials who hold the Justice positions is higher than that of those on the Conciliation and Decision Boards. In the case of the workers at the IRHE and the INTEL, pursuant to what was provided by Law 25, they would have to follow the same paths that public servants in general follow. Concerning those public servants who were not covered by special laws, there was no change, since before Law 25 they had the possibility to file a reconsideration remedy action or an appeal through the governmental mechanism, and later to exercise the right to go to the Third Section of the Supreme Court, through the administrative conflicts jurisdiction. Law 25 did not require a previous administrative proceeding for the application of the dismissal sanction. According to the law, the authority that took the decision to dismiss did not have to indicate at that time which evidence was available; it simply had to do it through a written document, pointing out the causes for which this action was being taken. What is important is for the worker to know which the facts were that justified the termination of the working relationship. Concerning the guarantees of defence in the face of arbitrary action, what Law 25 granted was the possibility to file remedies for purposes of revision in the governmental domain, and later at the Third Section of the Supreme Court. The “paragraph” of Article 2 of Law 25 established that the Executive Branch, through the Cabinet Council, would determine the actions that attempted against democracy and the constitutional order, in order to apply the administrative sanction of dismissal. This statement by the Executive Branch is, with respect to this Law, a condition for the applicability of the dismissal sanction. “Militant work stoppage” is terminology that is much used in common language but not in legal language, and this is an abrupt, non-justified suspension, without permission or authorisation from any authority. The work stoppage was not regulated as such in the Labour Code at least until 1994. The strike is mentioned in Panamanian legislation and it is a temporary suspension of the work. There may be a legal or an illegal strike. Strikes were reserved for private enterprise workers. The right to strike is also mentioned at constitutional level. Workers covered by special laws, such as those at the IRHE and the INTEL can exercise the right to strike provided they comply with a number of requirements. As to the procedure to be followed for a strike to be declared legal, it starts with a mandatory conciliation that takes place as soon as a conflict arises. Ministry of Labour authorities, which are administrative authorities responsible for mediation or conciliation duties, participate in this procedure to try to bring the parties into agreement. The term established by the law to attempt such conciliation is 10 days, which may be extended for an additional 10 days. If during that time the parties do not come to an agreement, the matter could be submitted to arbitration, a mandatory procedure for officials subject to Law 8. In the arbitration procedure one representative on the part of the workers union, and one representative on the part of the company are designated; they must reach agreement on who would be the third member of the Arbitration Tribunal, which must be established within two days. If the latter actually issues an arbitration decision, the parties must abide by it. In the event that any one party does not accept the decision, Law 8 establishes that the employer-employee relationship may be terminated with those not abiding by it and, in the case of the workers union, it could call a strike, which must follow the procedure established by the Labour Code. This strike declaration must be made eight days in advance in the case of State enterprises, so as to make possible an assessment of the danger and security factors that could be involved. On the basis that it is prohibited for the

workers to suspend their work abruptly, and after analysing the causes for justified dismissal established in Article 213, section a, of the Labour Code, it can be asserted that the termination of the employer-employee relationship may take place through justified dismissal in the case of the work stoppage. First, because it is an act of disobedience with respect to the order or instructions issued by the employer, and second because it means unjustified abandonment of the work or the reiterated reluctance to perform the work provided for in a contract, or the service to be provided. In labour matters and at the level of private enterprise, the Labour Code establishes clearly that the burden of proof of the facts that lead to the decision to dismiss corresponds to the employer, who is the person that adopts the measure. In the public domain, the State would have to determine which causes served as a basis to dismiss.

n. Report of the expert Feliciano Olmedo Sanjur-Gordillo, an attorney-at-law specialising in constitutional law

He is a University of Panama graduate in law and political science, with a Ph.D. law degree from the University of Salamanca, Spain. He was Justice of the First Section of the Supreme Court of the Republic of Panama, and as such he had to hear and decide on unconstitutionality proceedings. He was Attorney of the Administration and, while on this position, he had to take part in unconstitutionality proceedings. He was Secretary General of the Office of the Attorney General of the Nation, an entity of the Prosecutorial Agency that intervenes expressing opinions in unconstitutionality proceedings. For nearly 10 years he has devoted himself to his private law practice and during this time he has participated in unconstitutionality proceedings. In Panama, an unconstitutionality action, a consultation on unconstitutionality, or a warning of unconstitutionality may originate the unconstitutionality proceeding. In the first case it is necessary, together with the filing of the complaint, to present an authenticated copy of the public instrument that is contested. The complaint is forwarded to the Office of the Attorney General or of the Attorney of the Administration for its opinion, which must be issued within 10 days. After an opinion is delivered by one of the two offices, the matter must be “slated” in order for anyone having an interest in the proceedings to appear and deliver an opinion, or request that the action contested be declared either constitutional or unconstitutional. Then comes the decision of the Full Supreme Court, which is the entity responsible for deciding on the proceedings. The unconstitutionality remedy, which brought about the May 23, 1991 judgment, should have been processed according to the procedural steps described, as established in Book Four of the Judicial Code. It provides that in unconstitutionality actions, the Full Supreme Court shall limit itself to confronting the action contested with the constitutional rules deemed to have been violated. But, in addition, the Code grants the Full Supreme Court a much more dynamic role, since it demands of it that it confront the action contested with all such rules of the Constitution as, in its opinion, relate to the case and could eventually be found to have been violated by the action contested. It is not possible, within an unconstitutionality action, to seek reparation purposes against the author of the action, since there is not in Panama a legal rule that establishes that the unconstitutionality proceedings and the unconstitutionality action would have another purpose other than the preservation of the constitutional order. The legal effect that a declaration of unconstitutionality concerning a legal rule that serves as a basis for an administrative action has, is the disappearance of the rule from the legal system. The administration cannot revise such administrative actions for supervening illegality or unconstitutionality, because the effects of the judgment whereby a rule is declared

unconstitutional are directed to the future; therefore, for as long as the legal rule is in force, it serves as a legal basis for the action performed during its term of validity. If, parallel to the administrative conflicts proceeding, an unconstitutionality action is brought where a legal rule that must be applicable in the administrative proceeding is questioned and, before a decision is made in the administrative conflicts proceeding the Full Court solves the unconstitutionality case and declares the rule unconstitutional, the Justices of the Third Section of the Supreme Court have to take such decision into consideration, since otherwise a legal rule that no longer exists would be applied. As recognised by the general doctrine, the administration has broad powers to annul its actions automatically, with some exceptions. In Panama, the protection of legality corresponds to the Third Section of the Supreme Court. With respect to contestation, once the governmental recourse is exhausted, the case is forwarded to the Third Section of the Supreme Court. The Constitution establishes that if the Third Section deems the action, of dismissal in this case, legitimate, the judgment is final, definitive and binding, and that it has to be published in the Official Gazette. Thus, it would be very difficult for the administration, in this second assumption, to revise such action as to constitutionality or legality, because of the fact that a decision that legally resolved the case exists. This is independent from the possibility of the administration itself to revise the situation as a matter of course, which it could do based on its discretional powers to revise. Chapter Three of the Panamanian Constitution regulates individual and social rights and duties; it includes a chapter that contains the basis for the regulation of the relationship between capital and labour. The basic rules and principles that govern the management of State personnel appear in Chapter Eleven, conceived under the public servant title. The Constitution defines what public servants are at the beginning of this Chapter, and it establishes separate legal systems for relations between capital and labour, and relations between public servants and the State. In Chapter Two the Constitution establishes public careers, among which it mentions the administrative career, the educational career, the health career, and all others deemed necessary according to the legislators, and it establishes in Article 300 that these careers shall be established and regulated by law. Article 294 establishes that any official, any person holding a public position, who receives remuneration from the State, is a public servant. Article 2 of the Labour Code adopted in 1971, established that as a general rule it was not applicable to public servants, save for the rules that the Code itself would establish exceptionally and for a specific purpose. There were some cases of public servants who were governed in certain aspects by a system similar to that of labour law, as in the case of Law 8 of 1975 and certain laws of 1979 on some port workers. Article 295 of the Constitution of Panama establishes that public servants shall be of Panamanian nationality without distinction of race, sex. religion, beliefs or political membership, and that their appointment and dismissal shall not be the absolute and discretional power of any one authority, except as regards the merits system and stability on the job for public servants, which shall depend on proficiency, loyalty and morality in the service. When the current administrative career law indicates the rights and duties of public servants it does not point out in a general manner the right to the stability of public servants. However, when it mentions the rights of administrative career officials it grants the right to stability. In jurisprudence that it has been issuing for several decades on certain public careers, the Supreme Court always maintained that when the administrative career law or the judicial career law were not in force, public servants could be freely appointed and dismissed. Before December 1990 there was no administrative career law; therefore, the relations between public servants and the State agencies were governed by general rules and by some special rules of an administrative nature established usually in the internal regulations and in the laws that

regulated certain careers. Article 70 of the Constitution of Panama establishes the principle that no worker may be dismissed other than for a fair cause and subject to the formalities that the law establishes. It is not possible to dismiss a worker if she or he did not commit an act regarded as cause for dismissal under the labour law. Furthermore, the worker must be afforded the opportunity to refute the accusation or to defend her or his rights, if she or he deems the dismissal to be unjustified. The Constitution centralises the control of constitutionality on the Supreme Court, and it establishes that it shall exercise the administrative conflicts jurisdiction in connection with all acts performed by the authorities and agencies of the central administration, the de-centralised administration, and the local administration. In like manner it establishes several actions, such as the nullity action, a popular action that may be brought by any person who is a resident of Panama. In the case of the full jurisdiction action, which is the action actually brought by the offended party, the procedure is as follows: in the first place, the party offended must exhaust the governmental recourse. Once the governmental recourse is exhausted, the administrative conflicts jurisdiction becomes available through the full-jurisdiction remedy or action. When, in the exercise of a full-jurisdiction action, the complaint is filed, the complainant must attach a copy of the item questioned, and all the evidence she or he deems pertinent or convenient for his legal situation. Once the complaint is admitted, the Substantiating Justice has to request the authority that performed the act being contested a report on conduct relative to the case, before forwarding the matter to the Office of the Attorney of the Administration. Once the report is received, the case is referred to and held for 10 days in the Office of the Attorney of the Administration, which defends the interests of the entity affected. Once the Office of the Attorney of the Administration responds to the complaint, the proceeding is open for the admission of evidence for a term of five days, during which both, the Attorney of the Administration, and the complainant, have the right to propose such evidence as they had not submitted together with the complaint or with the response to the complaint. The law indicates that a term of 20 working days must be established thereafter for production of the evidence. There is a period for any of the parties to object to evidence submitted. Furthermore, if the Substantiating Justice does not admit any of the evidence, this decision may be appealed before the rest of the Supreme Court Section. Once this term expires, the parties present their arguments within the five following days, and later the matter is submitted to the decision of the court. Law 25 of 1990 is not a labour law; it is an administrative law that refers to disciplinary sanctions that may be adopted against public servants. Law 25 does not have a procedure for the application of the sanction; what it establishes is a cause for dismissal. Since it does not regulate the procedure, it would be necessary to look into the rest of the general administrative rules on the subject. There must be a qualification in order to be able to apply a sanction, since otherwise the administrative action would be arbitrary. At the time that the administration is attributing the commission of an illegal act subject to sanction to a public servant, the participation of the subject in the constitution of such action must be permitted, in order to question and contest the evidence submitted by the administration against her or him. The guarantee of the due process implies hearing the person being affected, and such guarantee to be heard is obtained through remedies, which the accused party may file, and under which she or he may propose evidence, submit arguments, and be heard. Article 2 of Law 25 ordered the authorities of the State to do an identification in advance, to be able to declare the appointment non subsistent. The rules of the different entities that governed this issue had to be applied to such identification, since Law 25 did not establish a procedure. Article 43 of the Panamanian Constitution regulates the matter of retroactivity of a law, and it establishes that laws shall not be retroactive, save for those relative

to the public order or of social interest, provided it is so established or defined in them. A penal law that is favourable to the offender, shall always be retroactive, even in cases of sentences applied. There are two rules in the cited Article. First, the rule that establishes the general rule of non-retroactivity of the laws, where three exceptions are established: public order laws, social interest laws, and penal laws. In jurisprudence of the year 55, the Supreme Court maintained that public order or social interest laws are those that, at a given historical moment or circumstance, are indispensable for the maintenance of the State's economic, political or social system, and those that provide the satisfaction of a social need in a direct manner. The laws that establish sanctions may be of a penal, of a disciplinary or of any other type. If it is a public order law it may have a retroactive effect even if it applies a sanction. If it is a penal law because it defines an offence and establishes the punishment, it may not have a retroactive effect unless it is favourable to the offender. The Full Supreme Court has maintained that the Legislative Assembly does not have absolute powers to qualify when a law is or is not a public order law. An administrative action of the Cabinet Council, such as Resolution N° 10 published on February 4, 1991, which determined which actions attempted against democracy and the constitutional order, is a public action of the Government subject to constitutional control, that may be equally contested for unconstitutionality before the Supreme Court. The conduct described as "to attempt against democracy and the constitutional order," could be assimilated into some offences described in Panamanian legislation. The Penal Code describes as an offence the failure of a public official in exercise of her or his duties to denounce an automatically punishable offence of which she or he had knowledge.

VI. EVALUATION OF THE EVIDENCE

66. Article 43 of the Rules of Procedure points out the appropriate procedural moment for the submission of the items of evidence and the admissibility thereof, to wit:

Items of evidence tendered by the parties shall be admissible only if previous notification thereof is contained in the application and in the reply thereto and, where appropriate, in the communication setting out the preliminary objections and in the answer thereto. Should any of the parties allege force majeure, serious impediment or the emergence of supervening events as grounds for producing an item of evidence, the Court may, in that particular instance, admit such evidence at a time other than those indicated above, provided that the opposing party is guaranteed the right of defense.

67. Article 44 of the Rules of Procedure empowers the Court to:

1. Obtain, on its own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant.
2. Invite the parties to provide any evidence at their disposal or any explanation or statement that, in its opinion, may be useful.
3. Request any entity, office, organ or authority of its choice to obtain information, express an opinion, or deliver a report or pronouncement on any given point. The documents may not be published without the authorization of the Court.

68. It is important to point out that the contradiction principle governs all matters relative to the evidence; this principle ensures the right of defence of the parties, and it is one of the foundations of Article 43 of the Rules of Procedure as regards the timeliness with which the evidence must be submitted in order to ensure equality between the parties.

69. Since the purpose of the evidence is to prove the truthfulness of the facts alleged, it is of the utmost importance to find the criteria used by an international court of human rights in the assessment of the items of evidence.

70. The Court has some discretional powers to assess the statements or expressions presented to it either in written form or through other means. To such effect and as in the case of all courts, it can make an adequate assessment of the evidence according to the rule of judgment based on admissible evidence, which shall permit the judges to arrive at a conviction on the truth of the facts alleged, taking into consideration the purposes and objective of the American Convention. [FN7]

[FN7] cfr. Constitutional Court Case. Judgment of January 31, 2001, Series C, N° 71, para. 49.

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71. In the interest of collecting the largest possible amount of evidence, this Court has been very flexible as to the admission and evaluation thereof according to the rules of logic and based on experience. One criterion that the Court has already pointed out is that of informality in the evaluation of the evidence, since the procedure established for a contentious case before the Inter-American Court has characteristics of its own that distinguish it from internal law proceedings, the former not being subject to the formalities that characterise the latter.

72. This is why judgment based on admissible evidence and the fact that formalities are not required for the admission and evaluation of the evidence, which is valued as a whole and rationally, constitute basic criteria for the assessment thereof.

73. The Court has the responsibility to assess the value of the items of evidence submitted by the parties in the instant case.

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74. Concerning such documentary evidence submitted by the Commission and by the State, as was not contested or objected to, and whose authenticity was not placed in doubt, this Tribunal admits it thus adding it to the entirety of the evidence in the instant case.

75. In its response brief (supra para. 31) the State objected to the admission of appendices 2, 3, 4, 5, 6, 10, 11, 12, 14, 15, 16 and 17 (supra para. 26 and 59) submitted by the Commission in its response brief, based on the argument that such evidence was neither legible, authentic, or legitimately certified.

76. The procedural system is a means to do justice, and the latter cannot be sacrificed for the sake of mere formality [FN8], it not being a reason for the Court to neglect the legal security and the procedural balance of the parties. [FN9] Since these are proceedings before an international court and since the matter dealt with is human rights violations, they are more flexible and informal than those conducted before the countries' internal authorities. [FN10]

[FN8] cfr. Constitutional Court Case. supra, note 7, para. 45.
[FN9] cfr. "The last temptation of Christ" Case. (Olmedo-Bustos et al.). Judgment of February 5, 2001. Series C, N° 73, para. 50.
[FN10] cfr. Constitutional Court Case. supra note 7, para. 46 .
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77. The Court evaluated exhaustively the 12 appendices to which the State objected and, in respect of the above-mentioned non-formality criteria, it rejects the objection and accepts said documents as appropriate evidence.

78. Concerning the newspaper clippings submitted by the parties, this Court has considered that, even if they are not regarded strict documentary evidence, they can be taken into consideration when they refer to public or notorious deeds or statements of high State officials, or when they corroborate what has been established in other documents or testimonies admitted in these proceedings. [FN11]

[FN11] cfr. Paniagua-Morales et al. Case. Judgment of March 8, 1998. Series C N° 37, para. 75.
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79. On January 26, 2000, Mr. Jorge Nicolau, Administrative and Product Development Director of Cable & Wireless Panama, sent a note addressed to the Court, at the request of the State, concerning the workers of said company who were rehired. Since it was neither objected to or contested, nor was its authenticity placed in doubt, the Court proceeds to add it to the entirety of the evidence, in compliance with Article 44(1) of the Rules of Procedure (supra para. 41 and 62).

80. On November 22, 2000, the State submitted part of the documentation requested by the Court on August 10, 2000, as evidence to broaden the knowledge on the matter (supra para. 53 and 61). The Court deems such documents to be useful, and adds it to the entirety of the evidence in application of what is established in Article 44(1) of the Rules of Procedure.

81. This Court considers that they parties must submit to the Tribunal the evidence requested by the latter, whether it be in the form of a document, a testimony, an expert witness report, or of any other type. The Commission and the State must provide all items of evidence required – either on their own motion, as evidence to broaden the knowledge on the matter, or at the request of one party- in order for the Tribunal to have at its disposal the greatest number of elements of judgment to know the facts and support its decisions. In this respect it is necessary to take into

account that in human rights violation proceedings it may occur that the complainant not have the possibility to submit evidence obtainable only through co-operation from the State. [FN12]

[FN12] cfr. Durand and Ugarte Case. Judgment of August 16, 2000. Series C N° 68, para. 51.

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82. Concerning the note submitted by Mr. Jean-Michel Arrighi, Director of the International Law Department of the OAS, concerning the suspension of guarantees of the Convention, the Tribunal adds it to the entirety of the evidence (supra para. 30 and 63).

83. The Court deems useful the two judgments of the Supreme Court of Panama that mention Article 8 of the American Convention and that refer to the applicability of international law in Panamanian internal law, which were submitted by the State during the public hearing on the merits, and it proceeds to add them to the entirety of the evidence on the basis of Article 44(1) of the Rules of Procedure.

84. In its brief of observations to the request of the Commission concerning costs and expenditures (supra para. 56 and 64) the State expressed opposition to the evidence submitted by the Commission because "none of the photocopies of the documents submitted […] as evidence proves that any or all of the 270 complainants would have incurred any expense on the occasion of these proceedings [and that said] photocopies [are] not authenticated."

85. In this respect, and following the same criteria expressed in preceding paragraphs (supra para. 76 and 77), the Court rejects the objection filed by the State and instructs the incorporation into the entirety of the evidence of the documents to which objection was expressed, which shall be evaluated in conformity with criteria already defined by the Tribunal.

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86. As to the testimonial evidence received, to which no objection or contestation was expressed, the Court admits it only to the extent that it meets the purpose of the interrogation.

87. Concerning the reports of the experts offered by the parties, to which no objection or contestation was expressed, the Tribunal admits them and recognises them as evidence.

VII. FACTS PROVEN

88. As a result of the examination of the documents, the statements of witnesses, the reports of the experts, and the expressions formulated by the State and by the Commission in the course of the proceedings, this Court considers as proven the following facts:

Before the passing of Law 25

a. on October 16, 1990, the Co-ordinating Organisation of State Enterprise Workers Unions submitted to the Government of Panama, which at the time was presided over by Mr. Guillermo

Endara-Galimany, a petition with 13 items, to wit: non-privatisation of State enterprises; derogation of the laws that reformed the Labour Code; halting of the dismissals and immediate reinstatement of the leaders of the State sector; payment of bonuses and of the thirteenth bonus month; respect for labour laws, internal regulations and the agreements arrived at with State sector organisations; respect for labour organisations and their leaders; derogation of war decrees and anti-worker decrees; compliance with the job and work manuals, classifications, salary scales and evaluations; ratification and implementation of Agreement 151 of the International Labour Organisation (ILO); respect for the autonomy of State entities; approval of an "Administrative, scientific and democratic career;" non-modification of the Organic Law of the Social Security Administration and other social laws, such modification being intended to reduce the benefits thereby provided for; satisfactory response to the situation of the construction workers sector, of the students of the National Institute, of the war refugees, and of the residents of Loma Cová; [FN13]

b. on November 16, 1990, through note 2515-90DM, the State rejected the petition submitted by the Co-ordinating Organisation of State Enterprise Workers Unions; [FN14]

c. the Co-ordinating Organisation of State Enterprise Workers Unions issued convocation publicly for a march on December 4, 1990, and a 24-hour work stoppage the following day. [FN15] The public protest demonstration was held on December 4, 1990, whose purpose was the satisfaction of the claims contained in the petition that had been rejected by the Government. [FN16] The march took place peacefully with the participation of thousands of workers; [FN17]

d. the demonstration of December 4, 1990 coincided with the escape of colonel Eduardo Herrera-Hassán from Naos Island and with the partial takeover of the Central Fort of the National Police by the latter together with a group of members of the military; [FN18]

e. the work stoppage convoked by the Co-ordinating Organisation of State Enterprise Workers Unions took place on December 5, 1990, [FN19] and it was suspended during the same day to prevent its being associated with the movement of colonel Eduardo Herrera-Hassán; [FN20]

f. the essential public services were not affected in the course of the work stoppage that took place December 5, 1990; [FN21]

g. in the morning of December 5, 1990 colonel Eduardo Herrera-Hassán performed a march towards the Legislative Hall, which was attended basically by armed members of the military or former members of the military. [FN22] That same day in the morning colonel Herrera-Hassán was detained by U.S. military forces and turned over to the Panamanian authorities; [FN23]

h. in face of the events of December 4 and 5, 1990, the President of the Republic did not decree a state of emergency or the suspension of guarantees (Article 27 of the American Convention o Human Rights); [FN24]

i. on December 6, 1990, "by virtue of authorisation from the Cabinet Council," the Minster of the Interior forwarded to the Legislative Assembly a draft bill proposing the dismissal of all public servants who had participated in the organisation, convocation or implementation of the work stoppage of December 5, 1990, since he felt that such movement sought to subvert the democratic constitutional order and to replace it with a military regime; [FN25]

j. before the passing of said law, the State dismissed most of the workers who are the alleged victims in the instant case. These dismissals were effected through a written notice issued in most cases by the Director General or the Executive Director of the entity, by order of the President of the Republic, based on participation in the alleged illegal work stoppage of December 5, 1990; December 13 [FN26]

k. the 270 workers who are the alleged victims in the instant case worked at the following public institutions: National Telecommunications Institute, National Port Authority, Bayano Cement State Enterprise, National Renewable Natural Resources Institute, Water Resources and Electric Power Institute, National Water and Sewerage Institute, Ministry of Public Works, and Ministry of Education; [FN27]

l. For purposes of putting into effect the dismissals of the public workers that took place either before the passing of Law 25, or after it was passed, the workers were identified on the basis of the reports or lists prepared by the directors, supervisors, heads of sections and departments, and those administratively and operationally responsible at the work sites. For purposes of preparation of said reports they based themselves on the knowledge that they had of their activities towards the promotion, organisation or participation in the December 5, 1990, work stoppage; [FN28]

m. before the passing of Law 25, the workers of the IRHE and the INTEL were subject to the provisions of Law 8 of February 25, 1975, and to their respective internal labour regulations, under a special labour jurisdiction. The employer had to notify the worker in advance and in writing about the date of and cause for dismissal. The IRHE Internal Regulations instructed that, before proceeding to dismiss any worker, the immediate superior had to submit a request for dismissal to the Personnel Management Department, whereupon the latter would forward the case to the Labour and Social Well Being Co-ordination Department for the performance of an investigation, which had to include an interview with the worker. Later, and on the basis of the results of the investigation, the Legal Services Directorate had to issue a legal opinion and forward it to the General Directorate in order for the latter to make a final decision. [FN29] The workers of the INTEL could avail themselves of an administrative proceeding prior to dismissal. [FN30]

Once the dismissal orders were issued, the workers of the IRHE and the INTEL had the right to appeal before the Central Company Committee, and the Director or General Manager of the Institution. [FN31]

Within the special labour jurisdiction, the workers had the right to appear before the Conciliation and Decision Boards, which were tripartite labour courts, to apply either for reinstatement or for the payment of indemnification. Depending on the amount, the decision of the Conciliation and Decision Board could be appealed through the filing of an appeal remedy with the Superior Labour Court. The judgment that this Court hands down, as second instance in a proceeding originating in the Conciliation and Decision Boards, is final and may not be appealed. Nevertheless, in a conditioned manner, through the constitutional guarantees protection remedy, the Full Supreme Court could hear the decisions of the Superior Labour Court. If the Superior Labour Court, in the second instance, hears a proceeding from the Sectional Labour Courts, in some cases the labour cassation remedy may be applied before the Third Section of the Supreme Court. [FN32]

According to the Labour Code, the dismissal of leaders with labour union powers subject to such rules, required authorisation in advance from the labour courts. [FN33]

The Administrative Code, and the organic law and the internal regulations of the institution governed the other public servants who were not covered by special laws where they worked. The employer was obliged to notify the worker, in advance and in writing, about the date of and cause for dismissal. Once the dismissal orders were issued, the workers had the right to file a reconsideration remedy with the same department that issued the orders, and an appeal remedy with the immediate superior, thus exhausting the governmental recourses. Thereafter, the

workers had the possibility to appear before the Third Section of the Supreme Court, which deals with matters of the administrative conflicts jurisdiction. [FN34]

[FN13] cfr. Testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; an article of the "La Estrella de Panamá" daily newspaper entitled "Thousands of public employees against the economic measures of the government," published on October 17, 1990; a special SITINTEL bulletin entitled "Information summary on our current struggle;" note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama addressed to the Minister of Foreign Affairs of Panama; an article of the "La Estrella de Panamá" daily newspaper entitled "Workers ratify a national strike and a march," published on December 3, 1990; a Resolution of the Labour Union Freedom Committee in Case N° 1569 "Complaints against the Government of Panama filed by the International Confederation of Free Labour Union Organisations (CIOSL), the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) and the Workers Union of the National Telecommunications Institute (SITINTEL);" the December 13, 1990 minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill; an article of the "El Siglo" daily newspaper entitled "National work stoppage December 5, 1990" published on December 3, 1990; and the record of the proceedings before the Full Supreme Court concerning the three unconstitutionality remedies filed December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodrígued; by Santander Trustán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al. against Law 25 of December 14, 1990.

[FN14] cfr. Testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; labour union communiqué of November 17, 1990, issued by the National Co-ordinating Organisation for the Right to Life; and note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama addressed to the Minister of Foreign Affairs of Panama.

[FN15] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000; testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000; an article of the "La Estrella de Panamá" daily newspaper entitled "Thousands of workers marched and reiterated the work stoppage today," published December 5, 1990; labour union communiqué of November 17, 1990, issued

by the National Co-ordinating Organisation for the Right to Life; an article of the "La Estrella de Panamá" daily newspaper entitled "Workers ratify national strike and a march," published December 3, 1990; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, in connection with the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú-Ponce, Perlina Loban-de-Andrade, Erick Lara-Moran, Darien Linares, Zilka Lou-M., Dennis Lasso-E., Orán Darío Miranda-Gutiérrez, Luis Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis Miranda, Esteban Nash-Campos, Evelio Otero Rodríguez, Antonio Omano-C., Gustavo Alexis Ortíz-G., Luis Osorio, and Omar Oses; and an article of the "El Siglo" daily newspaper entitled "National work stoppage December 5, 1990," published on December 3, 1990.

[FN16] cfr. testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000;an article of the "La Estrella de Panamá" daily newspaper entitled "Thousands of workers marched and reiterated the work stoppage today," published December 5, 1990; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court, in relationship to the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court, in relationship to the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; record of the proceedings before the Full Supreme Court in relationship to the three unconstitutionality remedies filed December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; and volume VI of the record of the proceedings before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition, against Eduardo Herrera-Hassán et al.; volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.

[FN17] cfr. testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; an article of the "La Estrella de Panamá" daily newspaper entitled "Thousands of workers marched and reiterated the work stoppage today," published December 5,

1990; article 38 of the Constitution of the Republic of Panama approved on April 24, 1983; and December 13, 1990 minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill.

[FN18] cfr. testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000; note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama addressed to the Minister of Foreign Affairs of Panama; an article of the El Panamá America daily newspaper entitled "Colonel Herrera escaped," published December 5, 1990; an article of the La Prensa de Panamá daily newspaper entitled "Herrera takes Central Fort," published December 5, 1990; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, in connection with the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú-Ponce, Perlina Loban-de-Andrade, Erick Lara-Moran, Darien Linares, Zilka Lou-M., Dennis Lasso-E., Oran Darío Miranda-Gutiérrez, Luis Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio Ornano-C., Gustavo Alexis Ortiz-G., Luis Osorio and Omar Oses; volume I of the record of the proceedings before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.; record of the proceedings before the Seventh Court of the Panama Circuit, First Instance, for the offence of sedition, against Eduardo Herrera-Hassán et al.; record of the proceedings before the Ninth Prosecutor's Department of the First Judicial District of Panama, for the offence of sedition against Eduardo Herrera-Hassán et al; volume VIII of the record of the proceedings before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Jorge Eliécer Bernal; volume VIII of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán, et al.; volume VII of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán, et al.; volume VI of the record of the proceedings before the Seventh Court of the Panama Circuit, First Inst ance, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán, et al.; and volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.

[FN19] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000; an article of the "La Estrella de Panamá" daily newspaper entitled "Law would ignore powers of public employees," published December 7, 1990, which contains the

Law 25 draft bill submitted to the Legislative Assembly; an article of the El Panamá América daily newspaper entitled "Massive dismissal of those against government," published December 7, 1990; certification issued by the Secretariat a.i. of the First Labour Court, First Section, on August 30, 1993; certification issued by the Secretariat of the Second Labour Court of the First Section on August 31, 1993; certification issued by the Secretariat of the Third Labour Court of the First Section on August 31, 1993; certification issued by the Fourth Labour Court of the First Section on August 31, 1993; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; and record of the proceedings before the Full Supreme Court in connection with the three unconstitutionality remedies filed by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristan-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990;

[FN20] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; volume I of the record of the proceedings before the Administrative Conflicts Jurisdiction of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers;

[FN21] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; and testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000;

[FN22] cfr. testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; record of the proceedings before the Full Supreme Court in connection with the three unconstitutionality remedies filed on December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristan-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; volume VIII of the record of the proceedings before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Jorge Eliécer Bernal; volume VIII of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán, et al.; volume VII of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence of sedition, against Eduardo Herrera-Hassán, et al.; volume VI of the record of the proceedings before the Seventh Court of the Circuit, Penal

Branch, for the Offence of Sedition, against Eduardo Herrera-Hassán, et al.; and volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera- Hassán et al.

[FN23] cfr. testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; an article of the La Nación daily newspaper of Costa Rica entitled “Marines crushed rebellion in Panama,” published on December 6, 1990; an article of the La Nación daily newspaper of Costa Rica entitled “Panama back to normal,” published December 7, 1990; an article of the El Panamá América daily newspaper entitled "Military coup left two dead," published December 6, 1990; an article of the La Prensa de Panama daily newspaper entitled “Coup d’etat fails,” published December 6, 1990; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, in connection with the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú-Ponce, Perlina Loban-de-Andrade, Erick Lara-Moran, Darien Linares, Zilka A. Lou-M., Dennis Lasso-E., Oran Darío Miranda-Gutiérrez, Luis E. Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis A. Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio A. Ornano-C., Gustavo Alexis Ortiz-G., Luis Osorio and Omar E. Oses; volume VI of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence of sedition, against Eduardo Herrera-Hassán, et al.; volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.; volume VIII of the record of the case before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Jorge Eliécer Bernal; and volume VIII of the record of the case before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against the accused, Eduardo Herrera-Hassán, et al.

[FN24] cfr. report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; and December 17, 1998, note sent by Mr. Jean-Michel Arrighi, Director of the International Law Department of the OAS to the Secretary of the Inter-American Court.

[FN25] cfr. testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; Law 25 draft bill; an article of the El Panamá América daily newspaper entitled "Massive dismissal of those against government," published December 7, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Law would ignore public workers jurisdiction," published December 7, 1990, which contains the draft of Law 25 sent to the Legislative Assembly; an article of the “La Estrella de Panamá” newspaper entitled "Draft bill sent by Endara typical of a dictatorship," published December 8, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Serious attack against freedom in Panama reported," published December 17, 1990; an article of the “La Estrella de Panamá” newspaper entitled "World-level sanctions against Panama could be imposed," published December 21, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Violence between workers and the police. 13 wounded," published December 14, 1990; December 13, 1990, minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill; and record of the

proceedings before the Full Supreme Court in connection with the three unconstitutionality remedies filed December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristan-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990;

[FN26] cfr. testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000; testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Cristobal Segundo; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Gustavo Ortíz; dismissal letter issued by the Director General of the IRHE on December 13, 1990, and addressed to Evangelista Granja; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Manrique Mejía; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Esteban Perea; dismissal letter issued by the Director General of the IRHE on December 13, 1990, and addressed to Jorge Martínez; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Raúl González-Rodaniche; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Víctor Buenaño; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Giovanni Prado; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Magaly Herrera; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Ernesto Romero; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Amed Navalos; dismissal letter issued by the Director General of the IRHE on December 12, 1990, and addressed to Víctor Soto; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Darien Linares; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Juanerge Carrillo; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Ivanor Alonso; dismissal letter issued by the General Manager of the INTEL on December 10, 1990, and addressed to Rolando Miller; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Ramiro Barba; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to María de-Sánchez; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Jorge Aparicio; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Gustavo Mendieta; dismissal letter issued by the General Manager of the INTEL on December 10, 1990, and addressed to Algis Calvo; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Joaquín Barría; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Pedro Valdés; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Carlos Márquez; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Jorge Cobos; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Manuel Sánchez; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Guillermo Torralba;

reconsideration remedy with an appeal in subsidy filed December 17, 1990, by the SITIRHE Defence and Labour Secretary; an article of the “La Estrella de Panamá” newspaper entitled "Panamanian democracy being demolished," published December 16, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Serious attack against freedom in Panama reported," published December 17, 1990; an article of the “La Estrella de Panamá” daily newspaper entitled "[…] differences between the government and labour unions," published December 13, 1990; an article of the “La Prensa de Panamá” daily newspaper entitled "Government measures anti-democratic, say public employees," published December 12, 1990; report of the Labour Law Committee of the National Bar Association, addressed to the Chairperson of the National Bar Association of November 22, 1993; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristóbal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wynter, Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; “Preliminary report prepared by the Dismissed Workers Committee concerning the obligations of due payment to workers dismissed pursuant to Law 25 of December 14, 1990 in the Republic of Panama;” a list entitled “Personnel dismissed pursuant to Law 25;” a listing of workers dismissed on the basis of Law 25, who had not been reinstated by the time the appendices to the application had been submitted; December 13, 1990, minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill; full-jurisdiction administrative conflicts action brought before the Third Administrative Conflicts Section of the Supreme Court (without a date) by Ricardo Stevens, in representation of Ricardo Gregorio Rivera; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada, Cayetano Cruz, and Jaime Camarena; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, in connection with the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú-Ponce, Perlina Loban-de-Andrade, Erick Lara-Moran, Darien Linares, Zilka Lou-M., Dennis Lasso-E., Oran Darío Miranda-Gutiérrez, Luis Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio A. Ornano-C., Gustavo Alexis Ortiz-G., Luis Osorio and Omar Oses; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos

del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; INTEL table entitled "Employment commitments with the employees dismissed pursuant to Law 25 of December 14, 1990;" note N° 66-Pers/95 issued by the Head of the Personnel Department of the National Water and Sewerage Institute on August 7, 1995, concerning the work performed by Miguel Prado-Domínguez; March 22, 1991 appeal remedy before the Board of Directors of the National Water and Sewerage Institute filed in representation of Miguel Prado, against Executive Resolution 18-91 of February 7, 1991, and personnel action N° 2362 of December 5, 1990, of the National Water and Sewerage Institute; dismissal notification of the National Water and Sewerage Institute to Mr. Miguel Prado through memorandum N° 81 of December 5, 1990; personnel movement form of Miguel Prado at the National Water and Sewerage Institute of December 5, 1990; personnel movement form concerning Alexis Garibaldi of December 10, 1990, effective as of December 12, 1990; personnel movement form concerning Ernesto Romero at the IRHE of December 10, 1990, effective as of that same date; personnel movement form concerning Navalo J. Amed at the IRHE of December 11, 1990, effective as of that same date; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990;

[FN27] cfr. “Preliminary report prepared by the Dismissed Workers Committee concerning the obligations of due payment to workers dismissed pursuant to Law 25 of December 14, 1990 in the Republic of Panama;” and letters of dismissal and personnel actions pertaining to the workers.
[FN28] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Alfredo Ford-Boyd delivered before the Inter-American Court on January 27, 2000; testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000.
[FN29] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; Law 8 of February 25, 1975; Internal Regulations of the Water Resources and Electric Power Institute, approved through Resolution N° 58-SRI of July 5, 1985; Report of the Labour Law Committee of the National Bar Association sent on November 22, 1993, to the President of the National Bar Association; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; and volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers.
[FN30] cfr. testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000.

[FN31] cfr. Law 8 of February 25, 1975; Internal Regulations of the Water Resources and Electric Power Institute, approved through Resolution N° 58-SRI of July 5, 1985; and report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000;
[FN32] cfr. testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; and Labour Code of the Republic of Panama of 1972, second edition, Mizrachi & Pujol S.A. publishers, 1996.
[FN33] cfr. Labour Code of the Republic of Panama of 1972, second edition, Mizrachi & Pujol S.A. publishers, 1996; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; and December 13, 1990, minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill.
[FN34] cfr. report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000.

Facts after the passing of Law 25

n. on December 14, 1990, the Legislative Assembly passed Law 25. [FN35] The cited Law 25 was published in the Official Gazette of Panama N° 21.687 of December 17, 1990. In Article 6 of said Law it was stated that it was a public order law, and that it would have a retroactive effect as of December 4, 1990. According to its Article 7 it would enter into effect since its issuance and would remain in effect until December 31, 1991; [FN36]
o. Law 25 was applied retroactively to December 4, 1990, by an express provision of Article 6 of the same Law; [FN37]
p. in its Article 1, Law 25 authorised the dismissal of those public servants “who had participated and who would participate in the organisation, convocation or implementation of actions that attempt against democracy and the constitutional order.” In the “paragraph” of Article 2 of said Law, the Cabinet Council was designated as the authority in charge of defining the actions of public servants that were deemed contrary to democracy and the constitutional order, in order to be able to apply the dismissal administrative sanction; [FN38]
q. on January 23, 1991, the Cabinet Council made the profiling which the “paragraph” of Article 2 of Law 25 empowered it to make. By means of Resolution 10, it established that the work stoppages and abrupt collective interruptions of the work in the public sector attempted against democracy and the constitutional order, and that “any public servant who would, as of December 4, 1990, have promoted, convoked, organised or participated in, or who would in the future promote, convoke, organise, or participate in work stoppages without complying with the established procedures and restrictions established in the Law, or in abrupt collective interruptions of the work in the public sector, would be subject to dismissal for cause.” The resolution was published in the Official Gazette of Panama N° 21.718 of February 4, 1991; [FN39]
r. Law 25 authorised the Executive Branch and the directors of the autonomous and semi-autonomous institutions, State and municipal enterprises, and other public agencies of the State to declare non subsistent, subject to a previous identification, the appointments of those public servants who took part or who would take part in the organisation, convocation or implementation of actions that attempted against democracy and the constitutional order; [FN40]

s. based on the reports or lists prepared at the respective public institutions and in application of Law 25, the appointments of the workers were declared non subsistent; [FN41]

t. the workers dismissed for their alleged participation in the organisation, convocation or implementation of actions that attempted against democracy and the constitutional order were never attached to the penal investigations carried out against the persons who took part in the movement of colonel Eduardo Herrera-Hassán, nor were they subject to an independent penal proceeding against the security of the State or the constitutional order; [FN42]

u. Law 25 changed all the provisions that were contrary to it, expressly the rules contained in Law N° 8 of February 25, 1975, Law N° 34 of September 26, 1979, Laws numbers 38 and 39 of September 27, 1979, and Law N° 40 of September 28, 1979; [FN43]

v. Law 25 produced a change in the procedure and in the competent court to hear the complaints of the State workers subject to special rules. In accordance with said Law, only the reconsideration remedy before the same authority that issued the orders, and the appeal remedy before the superior authority applied, which exhausted the governmental recourses. Later, the workers had the possibility to bring action in the administrative conflicts jurisdiction, before the Third Section of the Supreme Court; [FN44]

w. some workers who did not have labour union powers appeared before Conciliation and Decision Board N° 5, which did not admit the complaints. Some labour union leaders filed complaints with the Labour Courts, which requested the leaders to withdraw such complaints. Both entities based their rejection of the complaints on the argument that, in accordance with Law 25, they were not competent; [FN45]

x. the Full Supreme Court heard constitutional guarantee protection remedies directed against the "order[s] not to do," of Conciliation and Decision Board N° 5, and ordered it to admit the complaints and to express the reasons why it did not consider itself competent to hear them; [FN46]

y. in accordance with the provisions of Law 25, most of the 270 alleged victims filed both, reconsideration remedies with the authority that ordered the dismissal, and appeal remedies with the immediate superior; [FN47]

z. three unconstitutionality actions were brought before the Full Supreme Court against Law 25. Said actions were accumulated and, by means of the May 23, 1991, judgment, said Court declared that Law 25 was unconstitutional, except for the "paragraph" of Article 2, based on the argument that in unconstitutionality actions the Full Supreme Court must limit itself to "declare whether a legal rule is constitutional or not," and therefore the Court did not pronounce itself on the specific situation of the dismissed workers. Said decision is final, definitive, and binding and does not have a retroactive effect; [FN48]

aa. later, the workers filed full-jurisdiction administrative conflicts actions with the Third Section of the Supreme Court, which declared that the dismissals were legal on the basis of Law 25. The judgments were final, definitive and binding. In none of the proceedings was evidence submitted intended to prove that the dismissed workers had participated in actions against democracy and the constitutional order; [FN49]

bb. as a result of the events of the instant case, the victims and their representatives submitted elements to support costs and expenses incurred in the processing of the different internal and international proceedings, and the Court reserved the responsibility to determine the value thereof. [FN50]

[FN35] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; ; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000; report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; an article of the "La Estrella de Panamá" newspaper entitled "Endara's attitude against reconciliation," published December 16, 1990; an article of the "La Estrella de Panamá" newspaper entitled "Panamanian democracy being demolished," published December 16, 1990; an article of the "La Estrella de Panamá" newspaper entitled "Presidential advisors are the culprits," published December 19, 1990; an article of the "La Estrella de Panamá" newspaper entitled "Labour union leaders suspend hunger strike and accept mediation," published December 25, 1990; an article of the "La Estrella de Panamá" newspaper entitled "Passing of law leads to serious disturbances," published December 15, 1990; Cabinet Council Resolution N° 10 of January 23, 1991, published in the Official Gazette of Panama N° 21.718, of February 4, 1991; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama, addressed to the Minister of Foreign Affairs of Panama; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristóbal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wynter, Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; "Preliminary report prepared by the Dismissed Workers' Committee concerning the obligations pending payment to the workers dismissed pursuant to Law 25 of December 14, 1990, in the Republic of Panama; Resolution of the Labour Union Freedom Committee in Case N° 1569 "Complaints against the Government of Panama submitted by the International Confederation of Free Labour Union Organisations (CIOSL), the Workers' Union of the Water Resources and Electric Power Institute (SITIRHE) and the Workers' Union of the National Telecommunications Institute (SITINTEL)"; judgment of the Full Supreme Court of Panama of May 23, 1991, concerning the four unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, relative to the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther M.

Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel J. Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José A. Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú -Ponce, Perlina Loban -de-Andrade, Eric E. Lara-Moran , Darien C. Linares, Zilka A. Lou-M.-, Dennis Lasso-E., Orán Darío Miranda-Gutiérrez, Luis E. Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis A. Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio A. Ornano-C., Gustavo Alexis Ortiz-G., Luis H. Osorio, and Omar E. Oses; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos-R.; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN36] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; Report of the Ministry of Foreign Affairs entitled "Reservations to clarify Report N° 37/97 (Case 11.325) issued by the Inter-American Commission on Human Rights of the Organization of American States (OAS)," addressed on December 10, 1997, to the Ambassador of Panama and Permanent Representative to the OAS; December 13, 1990, minutes of the Legislative Assembly pertaining to the discussion of the Law 25 draft bill; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; judgment of the Third Administrative Conflicts Section of the Supreme Court of December 18, 1992, in connection with the actions brought by Carlos del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis

Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN37] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; an article of the El Panamá América daily newspaper entitled "Massive dismissal of those against government," published December 7, 1990; an article of the “La Estrella de Panamá” newspaper entitled "Law would ignore public workers jurisdiction," published December 7, 1990, which contains the draft of Law 25 sent to the Legislative Assembly; an article of the “La Estrella de Panamá” newspaper entitled "Draft bill sent by Endara typical of a dictatorship," published December 8, 1990; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; opinion of March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Cristobal Segundo; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Gustavo Ortíz; dismissal letter issued by the Director General of the IRHE on December 13, 1990, and addressed to Evangelista Granja; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Manrique Mejía; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Esteban Perea; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Cristóbal Segundo; dismissal letter issued by the Director General of the IRHE on December 13, 1990, and addressed to Jorge Martínez; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Raúl González-Rodaniche; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Víctor Buenaño; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Giovanni Prado; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Magaly Herrera; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Ernesto

Romero; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Amed Navalos; dismissal letter issued by the Director General of the IRHE on December 12, 1990, and addressed to Víctor Soto; dismissal letter issued by the Director General of the IRHE on December 10, 1990, and addressed to Darien Linares; dismissal letter issued by the Director General of the IRHE on December 11, 1990, and addressed to Juanerge Carrillo; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Ivanor Alonso; dismissal letter issued by the General Managerl of the INTEL on December 10, 1990, and addressed to Rolando Miller; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Ramiro Barba; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to María de-Sánchez; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Jorge Aparicio; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Gustavo Mendieta; dismissal letter issued by the General Manager of the INTEL on December 10, 1990, and addressed to Algis Calvo; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Joaquín Barría; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Pedro Valdés; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Carlos Márquez; dismissal letter issued by the General Manager of the INTEL on December 12, 1990, and addressed to Jorge Cobos; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Manuel Sánchez; dismissal letter issued by the General Manager of the INTEL on December 11, 1990, and addressed to Guillermo Torralba; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristóbal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wynter, Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; "Preliminary report prepared by the Dismissed Workers' Committee concerning the obligations pending payment to the workers dismissed pursuant to Law 25 of December 14, 1990, in the Republic of Panama;" judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, relative to the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther M. Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel J. Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José A. Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú -Ponce, Perlina Loban -de-Andrade, Eric E. Lara-Moran, Darien C. Linares, Zilka A. Lou-M.-, Dennis Lasso-E., Orán

Darío Miranda-Gutiérrez, Luis E. Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis A. Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio A. Ornano-C., Gustavo Alexis Ortiz-G., Luis H. Osorio, and Omar E. Oses; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; a listing of workers dismissed on the basis of Law 25 of December 14, 1990, who had not been reinstated by the time the appendices to the application had been submitted; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN38] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; Cabinet Council Resolution N° 10 of January 23, 1991, published in the Official Gazette of Panama N° 21.718, of February 4, 1991; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; minutes

of the Legislative Assembly of December 13, 1990, pertaining to the discussion of the Law 25 draft bill; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought on December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990

[FN39] cfr. Cabinet Council Resolution N° 10 of January 23, 1991, published in the Official Gazette of Panama N° 21.718, of February 4, 1991; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;reply to the full-jurisdiction action brought before the Third Section of the Supreme Court on March 9, 1992, by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristóbal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wynter, Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; opinion of March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN40] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Ramón Lima-Camargo delivered before the Inter-American Court on January 26, 2000; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; Cabinet Council Resolution N° 10 of January 23, 1991, published in the Official Gazette of Panama N° 21.718, of February 4, 1991; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN41] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000; personnel orders of Eugenio Tejada issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; resolution N° 202-90 of December 19, 1990, issued by the Director General of the National Port Authority, whereby the appointment of staff member César Antonio Aparicio is declared null and void; resolution N° 193-90 of December 19, 1990, issued by the Director General of the National Port Authority, whereby the appointment of staff member Fernando Dimas-R. is declared null and void; personnel orders of Miguel Ángel Martínez issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Tomás Morales at the National Port Authority of December 18, 1990, effective as of December 19, 1990; personnel orders of Enrique Jiménez at the National Port Authority of December 18, 1990, effective as of December 19, 1990; personnel orders of Carlos Archibold issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Maricela Rodríguez issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Sergio Marín issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Ismael Campbell issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990;

personnel orders of Gabino Young issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Daniel Heath issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Carlos Ernesto Henry issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; personnel orders of Luis A. Cabeza issued by the National Port Authority on December 18, 1990, effective as of December 19, 1990; a letter of the Head of Personnel of the Bayano Cement State Enterprise, of January 17, 1991, addressed to Milixa Ayala; letters of the Head of Personnel of the Bayano Cement State Enterprise, of January 2, 1991, addressed to Marco T. Moscoso, Saúl Quiróz, Enrique Silvera, Fernando Hernández, Andrés Guerrero, José Corbalán and Hildelbrando Ortega; letters from the General Manager of the INTEL, of December 17, 1990, addressed to Wilfredo Rentería and Rolando Roa; personnel resolution N° 184 PARAISO, of December 17, 1990, issued by the Director General of the National Renewable Natural Resources Institute for the dismissal of Elías Ortega; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Nuñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; and record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristan-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN42] cfr.testimony of Rogelio Cruz-Ríos delivered before the Inter-American Court on January 26, 2000; testimony of Nilsa Chung-de-González delivered before the Inter-American Court on January 26, 2000; testimony of Manrique Mejía delivered before the Inter-American

Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; a certification of August 12, 1991 of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Evangelista Granja; two certifications of August 13, 1991, of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Antonio González and Zilka Aimett Loy-Matos; a certification of August 20, 1991, of the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, with respect to Ernesto Romero; two certification requests of August 12 and 13, 1991, addressed to the Ninth Prosecutorial Agency, First Judicial Circuit of Panama, submitted by Zilka Aimett Loy-Matos, and Antonio González; request for certification submitted August 23, 1991, to the Ninth Prosecutor of the Panama Circuit on behalf of Miguel Prado; certification of August 26, 1991 issued by the Secretariat of the Ninth Prosecutor's Department of the First Panama Circuit concerning Miguel Prado; certifications issued on August 13, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Víctor Manuel Buenaño, Cristobal Segundo, Juanarje Carrillo-Batista, and Esteban Perea-Ponce; certification issued on August 20, 1991, by the Secretariat of the the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Jaime Espinosa; certifications issued on September 9, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Domingo Montenegro and Elías Ortega; certifications issued on August 30, 1991, by the Secretariat of the Ninth Prosecutor's Department of the First Judicial Circuit, concerning Euribiades D. Marín-Z., and César Augusto Contreras-P.; note N° DPG-2729-91 of November 8, 1991, sent by the Attorney General of the Nation of Panama to the President of the Labour and Social Well-being Committee of the Legislative Assembly; an article of the El Panamá América daily newspaper entitled "Massive dismissal of those against government," published December 7, 1990; an article of the "La Estrella de Panamá" newspaper entitled "No official serving of notice yet to workers' union leaders," published December 10, 1990; article of the "La Prensa" newspaper of Panama entitled "Moreno alleges involvement of police Directorate in coup," published December 11, 1990; volume I of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.; record of the case before the Seventh Court of the Circuit of Panama, Penal Branch, for the offence of sedition, against Eduardo Herrera-Hassán, et al.; record of the proceedings before the Ninth Prosecutor's Department of the First Judicial District of Panama, for the offence of sedition against Eduardo Herrera-Hassán et al; volume VIII of the record of the proceedings before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Jorge Eliécer Bernal; volume VIII of the record of the proceedings before the Seventh Court of the Circuit, Penal Branch, for the offence against the internal personality of the State, against Eduardo Herrera-Hassán, et al.; volume VI of the record of the proceedings before the Seventh Court of the Circuit of Panama, First Instance, for the offence of sedition, against Eduardo Herrera-Hassán, et al.; and volume VI of the record before the Second Superior Court of the First Judicial District for the offence against the internal personality of the State, against Eduardo Herrera-Hassán et al.

[FN43] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; report of the expert Humberto Ricord, delivered before the Inter-American Court on January 26 , 2000;report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24,

1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; reply to the full-jurisdiction action brought before the Third Section of the Supreme Court on March 9, 1992, by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristobal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wyter, Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN44] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of José Mauad-Doré delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; report of the expert Maruja Bravo-Dutary, delivered before the Inter-American Court on January 27, 2000; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; Law 8 of February 25, 1975; opinion of March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN45] cfr. testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Carlos Lucas López-Tejada delivered before the Inter-American Court on January 27, 2000; notarial certification of February 21, 1991, by the Twelfth Notary of the Circuit of the Republic of Panama, and judgment of the Full Supreme Court of March 12, 1991, in connection with the constitutional guarantee protection remedies filed by Marisina Ubillus-D.,

Jaime Camarena, Suldee R. de-Silva, Rolando Jiménez, Cristian Eliécer Pérez, Giovani Prado-S., Santiago Alvarado, Antonia del-Valle, Natalio Murillo, Teresa de-Sierra, Jorge A. Martínez, Daniel Jiménez, Sandra C. de-Romero, Alba Berrío, Pedro Atencio-M., Domingo De-Gracia, Andrés A. Alemán, Sergio Ochoa-Castro, Estebana Nash, Ricardo Rubén-Ríos, José Inés Blanco-O., Rodolfo Vence-Reid, Luis Anaya, Manuel Corro, Samuel A. Beluche, Víctor Bock-E., Miguel Bermúdez, Manuel J. Herrera-S., Daniel S. Trejos, Víctor M. Buenaño, Sonia de Smith, Jaime Batista, Esteban Perea, Raúl González-R., Magaly de Herrera, Marcos Bracamaya, Félix Herrera, Zilka Lou, Luis Arturo Sánchez, José Santamaría-S., Cayetano Cruz, Rubén D. Barraza, Rafael Tait-Yepes, Luis Alberto Tuñón, Alexis Garibaldi-B., Luis A. Batista-J., Raúl Murrieta-R., Evelio Otero-Rodríguez, and Ricardo A. Trujillo, against the Secretariat and the Co-ordinating organisation of the N° 5 Conciliation and Decision Board

[FN46] cfr. testimony of Carlos Lucas López-Tejada delivered before the Inter-American Court on January 27, 2000; judgment of the Full Supreme Court of March 12, 1991, in connection with the constitutional guarantee protection remedies filed by Marisina Ubillus-D., Jaime Camarena, Suldee R. de-Silva, Rolando Jiménez, Cristian Eliécer Pérez, Giovani Prado-S., Santiago Alvarado, Antonia del-Valle, Natalio Murillo, Teresa de-Sierra, Jorge A. Martínez, Daniel Jiménez, Sandra C. de-Romero, Alba Berrío, Pedro Atencio-M., Domingo De-Gracia, Andrés A. Alemán, Sergio Ochoa-Castro, Estebana Nash, Ricardo Rubén-Ríos, José Inés Blanco-O., Rodolfo Vence-Reid, Luis Anaya, Manuel Corro, Samuel A. Beluche, Víctor Bock-E., Miguel Bermúdez, Manuel J. Herrera-S., Daniel S. Trejos, Víctor M. Buenaño, Sonia de Smith, Jaime Batista, Esteban Perea, Raúl González-R., Magaly de Herrera, Marcos Bracamaya, Félix Herrera, Zilka Lou, Luis Arturo Sánchez, José Santamaría-S., Cayetano Cruz, Rubén D. Barraza, Rafael Tait-Yepes, Luis Alberto Tuñón, Alexis Garibaldi-B., Luis A. Batista-J., Raúl Murrieta-R., Evelio Otero-Rodríguez, and Ricardo A. Trujillo, against the Secretariat and the Co-ordinating organisation of the N° 5 Conciliation and Decision Board.

[FN47] cfr. Law 25 of December 14, 1990, published in the Official Gazette of Panama N° 21.687 of December 17, 1990; testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Guillermo Endara-Galimany delivered before the Inter-American Court on January 27, 2000; testimony of Jorge de-la-Guardia delivered before the Inter-American Court on January 27, 2000; testimony of Marta de-León-de-Bermúdez delivered before the Inter-American Court on January 27, 2000; reconsideration remedy with an appeal in subsidy filed December 17, 1990, by the SITIRHE Defence and Labour Secretary; note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama, addressed to the Minister of Foreign Affairs of Panama; reply to the full-jurisdiction action brought before the Third Section of the Supreme Court on March 9, 1992, by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristobal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wyter ,

Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada, Cayetano Cruz, and Jaime Camarena; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; judgment of the Third Administrative Conflicts Section of the Supreme Court of September 13, 1993, concerning the full-jurisdiction administrative conflicts action brought in representation of Miguel Prado; March 22, 1991 appeal remedy before the Board of Directors of the National Water and Sewerage Institute filed in representation of Miguel Prado, against Executive Resolution 18-91 of February 7, 1991, and personnel action N° 2362 of December 5, 1990, of the National Water and Sewerage Institute; reconsideration and appeal remedy in subsidy filed before the Director of the National Water and Sewerage Institute on December 5, 1990, in representation of Miguel Prado; reconsideration and appeal remedy in subsidy filed before the Director of the National Water and Sewerage Institute on December 7, 1990, in representation of Miguel Prado; Executive Resolution N° 18-91 issued February 7, 1991 by the Executive Director of the National Water and Sewerage Institute; reconsideration or revokation remedy action before the General Manager of the INTEL brought by Ivanor Alonso on December 18, 1990; reconsideration or revokation remedy action brought by Rolando Miller before the General Manager of the INTEL on December 13, 1990; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente

Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 23, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Yadira Delgado, Luis Alfonso Estrebi, Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Giuseppit-Pérez, Rigoberto Isaacs-Rozzi, Marisol Landau, Nodier Méndez, Lidia de-Marín, Rolando Antonio Miller-Byrnes, Nermes Antonio Marín, and Carlos Mendoza;

[FN48] cfr. testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Carlos Lucas López-Tejada delivered before the Inter-American Court on January 27, 2000; report of the expert Feliciano Olmedo Sanjur-Gordillo delivered before the Inter-American Court on January 27, 2000; note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama, addressed to the Minister of Foreign Affairs of Panama; Report of the Labour Law Committee of the National Bar Association sent on November 22, 1993, to the President of the National Bar Association; March 9, 1992 reply to the full-jurisdiction action brought before the Third Section of the Supreme Court by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio, Jaime Salinas-M., Giovanni E. Prado-S., Tomás A. Pretelt, Rubén D. Pérez-G., Sergio Ochoa-Castro, Sildee Ríos-de-Silva, Dorindo A. Ríos, Alidio Rivera, Sandra C. de-Romero, Ernesto Romero-Acosta, Isaac M.-Rodríguez, Fredys Pérez-M., Dony Arcesa Ramos-Quintero, Ricardo R. Ríos, Luis G. Risco-B., Ilka de-Sánchez, José Santamaría, Luis Arturo Sánchez, Enigno Saldaña, Teresa R. de-Sierra, Manuel Enrique Valencia, Christian Eliécer Pérez, Rodolfo G. Vence-R., Marisina del C. Ubillus-D., Rafael Tait-Yepes, Víctor Julio Soto, Cristobal Segundo Jr., Elvira A. de-Solórzano, Enrique C. Sellhom-M., Rodolfo A. Wyter , Ricardo A. Trujillo-R., Luis Olmedo-Sosa-C., Sonia de-Smith, and Damiel S. Trejos-G.; opinion of March 21, 1991 by the Office of the Administrative Attorney of the Prosecutorial Agency, concerning the three unconstitutionality actions brought December 21 and 24, 1990, by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990; jurisprudence of the Full Supreme Court concerning Article 2564 of the Judicial Code of the Republic of Panama; judgment of the Full Supreme Court of May 23, 1991, concerning the three unconstitutionality actions brought December 21 and 24 by Vicente Archibold-Blake in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al.; and by Basilio Chong-Gómez in representation of Rolando Miller et al., against Law 25 of December 14, 1990; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada, Cayetano Cruz, and Jaime Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in

representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; record of the case before the Full Supreme Court concerning the three unconstitutionality actions brought by Vicente Archibold-Blake, in representation of Isaac Rodríguez; by Santander Tristán-Donoso et al; and by Basilio Chong-Gómez, in representation of Rolando Miller et al., against Law 25 of December 14, 1990.

[FN49] cfr. testimony of Manrique Mejía delivered before the Inter-American Court on January 26, 2000; testimony of Luis Antonio Batista-Juárez delivered before the Inter-American Court on January 26, 2000; testimony of Carlos Lucas López-Tejada delivered before the Inter-American Court on January 27, 2000; March 9, 1992 reply to the full-jurisdiction action brought before the Third Section of the Supreme Court by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; judgment of the Administrative Conflicts Section of the Supreme Court of June 21, 1993, in connection with the actions brought by Vicente Archibold-Blake in representation of Miguel Angel Osorio et al.; warning of unconstitutionality of Law 25 of December 14, 1990, filed May 7, 1991, before the Third Administrative Conflicts Section of the Supreme Court of Panama, by Carlos del Cid in representation of Eduardo Cobos; full-jurisdiction administrative conflicts action brought before the Third Administrative Conflicts Section of the Supreme Court (without a date) by Ricardo Stevens, in representation of Ricardo Gregorio Rivera; resolution of the Third Administrative Conflicts Section, of September 24, 1991, in connection with the appeal filed by Ricardo Stevens, in representation of Ricardo Gregorio Rivera, against the proceedings of May 29, 1991; note number 838 of October 3, 1991, of the Secretariat of the Third Section of the Supreme Court addressed to the General Manager of the INTEL; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993 in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid, in representation of Tilsia M.-de-Paredes, Marisol Matos, Nemesio Nieves-Quintana, Antonio Núñez, Regino Ramírez, Mireya de-Rodríguez, Ricardo Simons, Errol Vaciannie, Walter Vega., Eduardo Williams, Marco Tovar and Jorge Murillo; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 30, 1993, in connection with the actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada, Cayetano Cruz, and Jaime Camarena; judgment of the Administrative Conflicts Section of the Supreme Court of December 18, 1992, relative to the actions brought by Vicente Archibold-Blake, in representation of Eduardo Gaslín-Caballero, Alfredo Guerra, Raúl González-Rodaniche, Melva Guerrero-Samudio, Esther M. Guerra, Evangelista Granja-C., Antonio González, Erick Alexis González, Manuel J. Herrera-S., Aníbal Herrera-Santamaría, Félix Herrera-C., Magaly V.-de-Herrera, Pompilio Ibarra-Ramírez, Daniel Jiménez-H., Rolando Jiménez, José A. Kellys-S., Gilberto Antonio Leguisamo, Dirie Lauchú(SIC) -Ponce, Perlina Loban -de-Andrade, Eric E. Lara-Moran, Darien C. Linares, Zilka A. Lou-M.-, Dennis Lasso-E., Orán Darío Miranda-Gutiérrez, Luis E. Montero, Valentín Morales-V., Raúl Murrieta-Ríos, Natalio Murillo, Jorge Martínez-F., Luis A. Miranda, Esteban Nash-Campos, Evelio Otero-Rodríguez, Antonio A. Ornano-C., Gustavo Alexis Ortiz-G., Luis H. Osorio, and Omar E. Oses; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 23, 1993, in connection with the actions brought by Carlos del-Cid, in representation of Yadira Delgado, Luis Alfonso Estrebi, Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Giuseppit-Pérez, Rigoberto Isaacs-Rozzi, Marisol Landau, Nodier Méndez, Lidia de-Marín, Rolando Antonio Miller-Byrnes, Nermes Antonio Marín, and Carlos Mendoza; judgment of the Third Administrative Conflicts Section of the Supreme Court of July 30, 1993, in connection with the actions brought by Carlos del-Cid, in representation of

Ivanor Alonso, Arnoldo Aguilar-U., Lionel Ángulo-C., Carlos Catline, Judith E. de-la-Rosa-de-Correa, Alfonso Chambers, Eduardo Cobos, Orlando Camarena, Alexis Díaz, Edgar de-León, Luis Coronado, and Elberto Luis Cobos; notice N° 710 of August 2, 1993, whereby notification of the July 30, 1993, judgment of the Third Administrative Conflicts Section of the Supreme Court is ordered; notice N° 817 of August 10, 1993 of the Secretariat of the Third Section of the Supreme Court addressed to the Director General of the National Telecommunications Institute; judgment of the Third Administrative Conflicts Section of the Supreme Court of June 29, 1993, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés Alemán-L., Santiago Alvarado, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela Berrio, José Inés Blanco-Obando, Jaime Batista-M., Miguel L. Bermúdez-T., Andrés Bermúdez, Marcos Bracamaya-Jaén, Mario Julio Brito-M., Víctor Bock-E., Víctor M. Buenaño-H., Minerva de-Campbell, Ladislao Caraballo-R., Manuel Corro-C., Reinaldo Cerrud, Juanerje Carrillo-Batista, Domingo De-Gracia-C., Roberto Escobar, César A. Espino, Jaime H. Espinosa-D., Jorge Antonio Fermán-M., Rita Guerra, Rolando A. Gómez-C., Esteban Perea, and Pablo Prado-Domínguez; judgment of the Third Administrative Conflicts Section of the Supreme Court of September 13, 1993, concerning the full-jurisdiction administrative conflicts action brought in representation of Miguel Prado; full-jurisdiction administrative conflicts action before the Third Section of the Supreme Court of June 25, 1993, brought in representation of Miguel Prado; note CSJ-SNG-354-94 of October 3, 1994, from the Vice President Justice in charge of the Presidency of the Supreme Court of Panama, addressed to the Minister of Foreign Affairs of Panama; Report of the Labour Law Committee of the National Bar Association sent on November 22, 1993, to the President of the National Bar Association; "Preliminary report prepared by the Dismissed Workers' Committee concerning the obligations pending payment to the workers dismissed pursuant to Law 25 of December 14, 1990, in the Republic of Panama;" Report of the Ministry of Foreign Affairs entitled "Reservations to clarify Report N° 37/97 (Case 11.325) issued by the Inter-American Commission on Human Rights of the Organization of American States (OAS)," addressed on December 10, 1997, to the Ambassador of Panama and Permanent Representative to the OAS; Resolution of the Labour Union Freedom Committee in Case N° 1569 "Complaints against the Government of Panama submitted by the International Confederation of Free Labour Union Organisations (CIOSL), the Workers' Union of the Water Resources and Electric Power Institute (SITIRHE) and the Workers' Union of the National Telecommunications Institute (SITINTEL)"; two certifications of the Secretariat of the Third Section of the Supreme Court, of May 20, 1992; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Vicente Archibold Blake, in representation of Magaly V. de-Herrera, Félix Herrera-C., Aníbal Herrera-Santamaría, Manuel J. Herrera-S., Eric Alexis González, Antonio González, Evangelista Granja-C., Esther M. Guerra, Melva Guerrero-Samudio, Raúl González-Rodaniche, Alfredo Guerra, and Eduardo Gaslín-Caballero; volume I of the record of the proceedings before the Administrative Conflicts Section of the Supreme Court in connection with the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Yadira Delgado, Luis Alfonso Estribi-R., Alfonso Fernández-Urriola, Eleno Augusto García-Castro, Alejandrina Gordon-Rivera, Ricardo Antonio Guiseppitt-Pérez, Rigoberto Isaacs-Rozzi, and Marisol Landau; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake in representaion of Miguel Angel Osorio, Sergio Ochoa-Castro, Christian

Eliécer-Pérez, Rúben D. Pérez, Giovani E. Prado-S., Fredys Pérez, Miguel L. Bermúdez-T., and Andrés Bermúdez; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Luis Anaya, Juan Bautista Quijada-B., Cayetano Cruz, and Jaime E. Camarena; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Vicente Archibold-Blake, in representation of Andrés A. Aleman -L., Santiago Alvarado, Pedro Atencio-Madrid, Javier Atencio-Arauz, Víctor Arauz-Núñez, Rubén D. Barraza, Luis Bernuil-Z., Alba Oritela-Berrio, José Inés Blanco-Obando, and Jaime A. Batista; volume I of the record of the case before the Administrative Conflicts Section of the Supreme Court, concerning the full-jurisdiction administrative conflicts actions brought by Carlos del-Cid in representation of Ivanor Alonso, Arnoldo Aguilar-U., Lionel Angulo-C, Luis Coronado, Elberto Luis Cobos, Carlos Catline-Todd, Judith de-la-Rosa-de-Correa, and Alfonso Chambers.

[FN50] cfr. Appendix I: table of "Expenditures Incurred by the Workmates of Law 25" in connection with the proceedings at the national courts and in the Inter-American System; appendix II: note of December 12, 2000, addressed to Mr. Hélio Bicudo, President of the Inter-American Commission, from Mr. Manrique Mejía, Co-ordinator of those dismissed pursuant to Law 25, entitled "Summary of the actions performed by Ms. Minerva Gómez in the proceedings of the international application relative to the dismissals under Law 25, 1990, in the inter-American human rights system;" and appendix III: check N° 15965 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 21, 2000, to the order of Mr. Fernando del-Río-Gaona; payment order N° 8812 issued on January 21, 2000 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Fernando del-Río-Gaona; check N° 12105 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1997, to the order of Viajes España; payment order N° 43(illegible) issued on March 18, 19(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 3458 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1992, to the order of Mr. Agilio Acuña-G.; unnumbered payment order issued March 17, 1992 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Agilio Acuña; check N° 3463 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 18, 1992, to the order of Mr. Manuel Rodríguez; check N° 11563 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on September 27, 1996, to the order of Mr. Rafael Lascano; payment order N° 3749 issued September 27, 1996, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11604 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on October 15, 19(illegible), to the order of Viajes España; payment order N° 3790 issued October 15, 19(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 11930 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 22, 1997, to the order of Viajes España; payment order N° 4153 issued January 22, 1997, by the Workers Union of the

Water Resources and Electric Power Institute to the order of Viajes España; unnumbered payment order issued March 18, 1992, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Manuel Rodríguez; check N° 11669 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on November 6, 1996, to the order of Mr. Rafael Lascano; payment order N° 3858 issued November 6, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11768 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on December 2, 1996, to the order of Viajes España; payment order N° 3976 issued December 2, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; check N° 11772 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on December 2, 1996, to the order of Mr. Rafael Lascano; payment order N° 3980 issued December 2, 199(illegible) by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rafael Lascano; check N° 11995 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 14, 1997, to the order of Mr. Manrique Mejía; payment order N° 4223 issued February 14, 1997 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Manrique Mejía; check N° 09427 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on March 15, 1995, to the order of Manrique Mejía; check N° 09323 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 22, 1995, to the order of Mr. Manrique Mejía; check N° 13404 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on February 6, 1998, to the order of Mr. Rolando Gómez; payment order N° 5779 issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; check N° 14777 of an account of the Workers Union of the Water Resources and Electric Power Institute (SITIRHE) at the National Bank of Panama, issued on January 21, 1999, to the order of Mr. José A. Arosemena-Molina; payment order N° 7266 issued January 21, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José A. Arosemena; folio numbered as “Control N° 19723” issued 06/02/97 by Viajes España to the SITIRHE; folio numbered as “Control N° 17856” issued 25/09/96 by Viajes España to the SITIRHE; folio numbered as “Control N° 17896” issued 27/09/96 by Viajes España to the SITIRHE; folio numbered as “Control N° 19042” issued 10/12/96 by Viajes España to the SITIRHE; invoice N° 2616 issued January 14, 1999, by Transportes Internacionales Centroamericanos (Tica Bus, S.A.) to Rolando Gómez; unnumbered payment order issued January 14, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; invoice issued by Servicio de Lewis, S.A. January 14, 1999, to the SITIRHE; unnumbered payment order issued January 14, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 15, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to

the order of Mr. Tomás Segura; unnumbered payment order issued January 16, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 22, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 28, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 28, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; a document that contains three invoices of the Banco de Costa Rica for the purchase of dollars; unnumbered payment order issued January 28, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Tomás Segura-Gómez; unnumbered payment order issued January 29, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Tomás Segura-Gómez; unnumbered payment order issued February 1, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rodolfo Vence-Reid; unnumbered payment order issued January 17, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; a document that contains an receipt issued January 18, 1999 by Mr. Carlos R. Martínez, whereby it is stated that he received "valid documents" from Mr. Rolando Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; document N° 47578 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, which states that it received two balboas from Mr. Tomás Segura-Gómez; document N° 47577 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, which states that it received two balboas from Mr. Rolando A. Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued January 18, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; a document issued by Transporte y Turismo Padafront Panamá, whose sender is José Santamaría, the consignment order bearing number 19589; an invoice issued January 23, 1999, by Rincón Universitario to the Workers Union of the IRHE; an invoice issued January 19, 1999, by Inversiones Candy, S.A., to the SITIRHE; unnumbered payment order issued January 25, 1999 by the Workers Union of the Water Resources and Electric Power Institute to the order of Eric González; unnumbered payment order issued January 25, 1999 by the SITIRHE to the order of Mr. José Santamaría; document N° 47790 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Eric González; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Nathaniel Charles; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Christian Pérez; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Domingo De-Gracia; unnumbered payment order issued January 18, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of

Mr. Rolando A. Gómez; document N° 47787 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Domingo De-Gracia; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Orón Darío Miranda; document N° 47783 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Orón Darío Miranda; unnumbered payment order issued January 28, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; receipt N° 001246 issued January 28, 1999 by CARITAS NACIONAL DE COSTA RICA to the SITIRHE; unnumbered payment order issued January 29, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 25, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Javier Muñóz; document N° 47789 issued by the National Immigration Directorate of the Ministry of the Interior and Justice of Panama, where it is stated that it received two balboas from Mr. Javier Muñóz; unnumbered payment order issued January 24, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 24, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; document N° 088627 issued by Artes Técnicas, S.A. (ARTEC) January 23, 1999, to the Workers Union of the IRHE; unnumbered payment order issued January 22, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of José Santamaría; invoice N° 1063759 issued by Kodak, Panama Ltd., on January 22, 1999; unnumbered payment order issued January 23, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued January 19, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of José Santamaría; invoice N° 108279 issued by Happy Copy January 19, 1999, to the Workers Union of the IRHE; invoice N° D.V.75 issued January 20, 19(illlegible) to the Workers Union of the IRHE; unnumbered payment order issued January 21, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; document N° 21778 issued by Transporte Inazún, S.A., January 21, 1999; unnumbered payment order issued January 15, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. José Santamaría; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; unnumbered payment order issued February 2, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Rolando A. Gómez; two copies of payment order N° 7232 issued January 13, 1999, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando A. Gómez; note of January 11, 1999 addressed to Mr. José A. Arosemena, of the Workers Union of the IRHE, from Messrs. Rolando A. Gómez-C., and Fernando Del-Río-Gaona; a document entitled "…made in San Jose, Costa Rica, from January 19 to 29, 1999," which is signed by José Santamaría, it being partially illegible; two copies of a document issued by the Compañía Panameña de Aviación, where it is stated that it received from Mr. José Arosemena the amount of two hundred eighty-three dollars (US$283.00); two copies of invoice N° 1103 issued by Hotel del Bulevar January 29, 1999 to Mr. José Arosemena; a receipt for advance N° 3298 issued by

Hotel Royal Dutch January 25, 1999; receipt for cash N° 158 issued by Marvin Murillo-Porras January 24, 1999; two copies of an air travel ticket issued by Compañía Panameña de Aviación to Mr. José Arosemena, for a trip to San Jose, Costa Rica, from January 24 to 29, 1999; a document that contains an invoice from Banco de Costa Rica for the purchase of dollars; a note of September 19, 1996 addressed to Viajes España by Mr. Narciso Barsallo, Secretary of Finance, SITIRHE; folio numbered as "Control N° 18428" issued 31/10/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 18427" issued 31/10/96 by Viajes España to the SITIRHE; folio numbered as "Control N° 18381" issued 29/10/96 to the SITIRHE; unnumbered payment order issued December 2, 1996, by the Workers Union of the Water Resources and Electric Power Institute to the order of Viajes España; invoice N° 5212 issued by Klassic Travel February 6, 1998, to Rolando Gómez; unnumbered payment order issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; unnumbered payment order issued February 6, 1998, by the Workers Union of the Water Resources and Electric Power Institute to the order of Mr. Rolando Gómez; two copies of the table entitled "Persons who go to the hearing in Costa Rica. Law 25 case;" table entitled "Persons who shall travel to San Jose, Costa Rica," to the hearing on the merits of case 11.325. **Law 25;** and table entitled "Expenditures made in San Jose, Costa Rica, from January 19 to 29, 1999."

VIII. PREVIOUS CONSIDERATIONS ON THE MERITS

89. In its reply to the application, the State alleged that at the time when the events occurred there prevailed a serious national emergency situation that threatened the security of the State. It likewise pointed out that Law 25 was issued with a limited term of validity, that it was strictly consistent with the demands of the moment, and that it was adopted legally, since the restrictions that it established are among those authorised by the Convention, to which effect it mentioned Articles 27, 30, and 32.2 of said covenant. Lastly, it reiterated that Law 25 had been issued for general interest reasons, with the objective of safeguarding the public order and the common good.

90. In its reply brief, the Commission argued that the state of emergency was not formally declared by Panama; that it violated the principles of proportionality, proclamation and notification that govern the states of emergency, according to which the exercise of the right to suspend guarantees is limited to the existence of certain given material conditions and to compliance with precise formal requirements which, in this case, were omitted by the State; that the decision to suspend rights cannot be arbitrary and must be applied only when a less restrictive alternative does not exist; that the measures adopted by the State were illegal, since they exceeded the threats supposedly posed against the nation, for which reason the massive dismissal of public workers was unnecessary and did not correspond to the demands of the moment, and colonel Eduardo Herrera-Hassán was pardoned, which proves that Law 25 was not intended to cope with a situation of emergency, but to punish the public servants, given that regular procedures were applied to the mastermind of the coup d'état, who was pardoned, while a punitive measure was applied to the public servants through exceptional legislation and they were not pardoned. Lastly, the Commission expressed that Law 25 was incompatible with the

Convention, even considering that it was issued by the Congress and was approved by the Executive Branch.

91. In its counter reply brief, Panama expressed that the events that developed in the country in December 1990 were part of a plan designed to accomplish the alteration of the State's democratic structures, a political movement intended to subvert the constitutional order and to replace the democratic system of government with a military regime; that the public and notorious situation of emergency and the provisions of Articles 297 and 300 of the Panamanian Constitution enabled it, within the sovereign framework of the State, to issue Law 25 in use of its ruling powers; that Article 27 of the Convention was not violated, since none of the guarantees therein provided for was suspended, and that default as to notification of the state of emergency in itself has not been recognised by the Inter-American Court as a violation of the obligations of the States.

92. Article 27(3) of the American Convention, that regulates the suspension of guarantees in states of emergency establishes the indispensable requirement to

immediately inform the other States Parties, through the Secretary General of the Organization of American States, of the provisions the application of which it has suspended, the reasons that gave rise to the suspension, and the date set for the termination of such suspension.

93. According to the evidence in its entirety in the instant case, it may be affirmed that the State did not inform the General Secretariat of the OAS that it would have suspended some of the guarantees established in the Convention. Mr. Guillermo Endara-Galimany, President of the Republic at the time of the events in the instant case, even stated, at the public hearing on the merits held at the seat of the Court, that "all liberties were respected […during his] Administration, […and that] civil rights, as constitutional rights of the Panamanians, were never suspended."(This translator's version of the quotation.)

94. By virtue of the fact that a state of emergency in Panama where some of the guarantees established in the American Convention would have been suspended was not declared, this Court deems inappropriate the allegation by the State concerning the presumed existence of such state of emergency, in respect of which it shall analyse the alleged violation of such articles of said Convention as relate to the protected rights claimed in the application, without regard to the rule applicable to the states of exception, that is, Article 27 of the American Convention.

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95. Both, at the public hearing, and in the course of its final arguments, the Commission alleged the applicability of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (hereinafter the "Protocol of San Salvador") to the instant case, based on the argument that, through the application of Law 25, the State affected the exercise of the right to organise and join trade unions freely (one of whose expressions is the right to strike, which is guaranteed as per Article 8 of said Protocol); that the Protocol of San Salvador entered into force on November 16, 1999, but that Panama signed said instrument in 1988, before the events in the instant case; that,

by signing the Protocol, the State made the commitment to abstain from perpetrating acts that would oppose the objective and purpose of the treaty; that, according to the general principles of international law, the obligations of the States arise well in advance of the moment that they ratify an international covenant, and that in this case Panama is liable for the violation committed by its agents after the signing of the Protocol of San Salvador, since the actions of the State contravened the objective and purpose of said instrument, as regards the trade union rights of the workers dismissed.

96. In the course of the same procedural instances, the State pointed out that the Protocol of San Salvador could not be applied to the instant case, and that the Commission intended to add a new fact to the application, which is the violation of Articles 1 and 8 of said Protocol; that the Commission is requesting to the Court the retroactive application of the Protocol of San Salvador and that it intends to put into practice rules that had not entered into force at the time of the passing of Law 25, in addition to the fact that Panama had not ratified said instrument at that time, and that Article 28 of the Vienna Convention on the Law of Treaties establishes the non-retroactivity of treaties, and that the provisions of an instrument do not bind the parties in relation to any acts or facts which would have taken place before the date of its entry into force.

97. The Court has referred before to its competence to apply human rights treaties other than the American Convention. In this sense it has felt that, while it has ample powers to hear about human rights violations, the latter must be referred to the rights protected by the Convention, except for cases where another international instrument ratified by the State grants it the competence to hear cases of violation to the rights protected by that same instrument. [FN51] Thus, in the Bámaca-Velásquez, Cantoral-Benavides, Villagrán-Morales et al. (the “Street Children” case), and Paniagua-Morales et al., the Court has also applied, in addition to the American Convention, the Inter-American Convention to Prevent and Punish Torture, or the Inter-American Convention on Forced Disappearance of Persons. [FN52]

[FN51] cfr. Las Palmeras Case, Preliminary Objections. Judgment of February 4, 2000. Series C N° 67, para. 34.

[FN52] cfr. Bámaca-Velásquez Case, Judgment of November 25, 2000, Series C N° 70, para. 126, 157 and 158; Cantoral-Benavides Case. Judgment of August 18, 2000. Series C N° 69, para. 98, 100 and 101; Villagrán-Morales et al. (the “Street Children” case). Judgment of November 19, 1999. Series C N° 63, chapter XIII, and Paniagua-Morales et al. Case, supra note 11, para. 133 to 136.

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98. The Court reaffirms the principle of general international law according to which the States have the duty to comply in good faith (pacta sunt servanda) with the international instruments ratified by them, which is established in Article 26 of the Vienna Convention on the Law of Treaties (1969), as well as to abstain from committing acts against the objective and purpose of said instruments, [FN53] even from the time of signing of the treaty, a principle that is applicable to the instant case. The latter duty, which is established in Article 18 of the cited Vienna Convention, is applicable to the Protocol of El Salvador. The Court, furthermore, makes

the observation that said Protocol even grants competence to this Tribunal under certain given assumptions.

[FN53] cfr. Loayza-Tamayo Case. Compliance with judgment. Order of November 17, 1999. Series C N° 60, para. 7; and Vienna Convention on the Law of Treaties, Art. 26.

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99. However, since at the time of the events in the instant case, that is, in December 1990, Panama had not yet ratified the cited Protocol, it may not be accused of violations thereto. This does not override the duty that the State has had, as of the signing of this international instrument, that is, November 17, 1988, to abstain from committing any act in opposition of the objective and purpose of the Protocol of San Salvador, even before its entry into force.

IX. VIOLATION OF ARTICLE 9 (Freedom from Ex Post Facto Laws)

100. The Commission argued that Law 25 of December, 1990, constituted the starting point of the violations that had been committed in the instant case. On the basis of such assertion, the Court deems it pertinent to analyse, in the first instance, the violation of Article 9 of the Convention as a consequence of the adoption of the cited Law 25.

Arguments of the Commission

101. Concerning Article 9 of the Convention, the Commission argued that:

a) the principles of legality and non-retroactivity are found to be applicable to the law on sanctions in its entirety, and to all forms where public power manifests itself;
b) all actions of the State, even those of an administrative nature, must be consistent with the limits defined by legality. For as long as a legal rule that characterises the violation and the sanction is not in force, a certain conduct can neither be defined as a fault, nor be subject to punishment;
c) Article 2 of Law 25 granted the Cabinet Council powers to determine which actions would be regarded as attempts against democracy and the constitutional order, so as to proceed to apply the dismissal administrative punishment. This rule violated the principle of legality, since, at the time of the events, said actions were not so characterised and no one may be punished for acts held as lawful at the time that they were performed;
d) when Cabinet Council Resolution 10, which characterised the actions or conducts that should be regarded as attempts against democracy and the constitutional order was published, the dismissal sanctions had already been applied;
e) Article 70 of the Constitution of Panama establishes the principle of legality for the application of the dismissal disciplinary sanction;
f) the public actions that caused the appointments of the public workers to be declared non subsistent, are administrative punitive actions;
g) the State workers were dismissed because priority was given to a particular law, that is, Law 25, which established that it was a public order law and that it was retroactive as of December 4, 1990;

h) the offence attributed to the workers was never proven. The dismissed workers were the victims of illegal and arbitrary deeds, since legality and legal security guarantees were lacking in the internal proceedings;
i) by virtue of the non-retroactivity principle, the laws that imply the application of punishment may be applied only in the direction of the future, since the person who would be eventually punished must know beforehand which acts are permitted and which are prohibited to her or him. The application of the law has time limitations. In the punitive domain, only such law as is in force at the time that the punishable act is committed may be applied; and
j) Law 25 violated the principle of non-retroactivity by punishing acts committed before its adoption, since it created one cause for dismissal, which is the most serious punishment for the worker. It likewise violated the principle of defence through the application of an arbitrary criterion, since only the opinion of the "highest executive of each institution" was required to apply the dismissal.

Arguments of the State

For its part, the State argued that:

a) Article 9 of the Convention cannot be applied to Law 25, since this law does not establish any penalty whatsoever; what it does is to authorise the dismissal of those public servants who took part or who would take part in acts against democracy and the constitutional order;
b) penal law is applied to all, whereas the disciplinary power is applied only to officials or employees in exercise of their duties. An administrative sanction is different from a penal sanction;
c) the retroactivity established in Law 25 is based on Article 43 of the Panamanian Constitution, which indicates that the laws do not have retroactive effects, except when so specified in them provided they are public order or social interest laws;
d) Panama did not use Law 25 to detach the workers in terms of employment, for which reason it may not be said that said Law was applied retroactively; and
e) Law 25 did not imply any change as to the punitive procedural system applicable to the public servants of the central government or the State institutions other than the IRHE and the INTEL. As to the workers of the latter two institutions, the change of system did not have retroactive effects, but instead it had immediate effects in the direction of the future.

Considerations of the Court

103. Article 9 of the American Convention establishes that

[n]o one shall be convicted of any act or omission that did not constitute a criminal offense, under the applicable law, at the time it was committed. A heavier penalty shall not be imposed than the one that was applicable at the time the criminal offense was committed. If subsequent to the commission of the offense the law provides for the imposition of a lighter punishment, the guilty person shall benefit therefrom.

104. The text of Law 25 provides as follows:

LEGISLATIVE ASSEMBLY LAW N° 25 (Of December 14, 1990)

“Whereby measures intended to protect democracy and the constitutional order are adopted at governmental institutions”

THE LEGISLATIVE ASSEMBLY HEREBY DECREES:

Article 1. In order to preserve the constitutional order, authorisation is hereby granted to the Executive Branch and to the directors of autonomous and semi-autonomous institutions, State enterprises, municipal enterprises, and other public entities of the State to declare non subsistent the appointments of those public servants who took part and who may take part in the organisation, convocation or implementation of actions that attempt against democracy and the constitutional order, whether or not they hold positions on the boards of directors of trade union organisations, and of public servant associations; their delegates and trade union or sectoral representatives, directors of public servant associations regardless of whether or not they enjoy trade union powers or whether or not they are governed by special laws.
Article 2. The higher authorities of the different State entities, such as State Ministers, directors of autonomous and semi-autonomous institutions, of the State enterprises, and other public agencies, the Attorney General of the Nation and that of the Administration, the Accountant General of the Republic, the respective Governors and Mayors shall, subject to identification in advance, be able to declare non subsistent the appointments of public servants who participate in the acts described in Article 1 of this Law.
Paragraph: The Executive Branch, through the Cabinet Council, shall determine whether the actions are against democracy and the constitutional order, so as to apply the administrative sanction of dismissal.
Article 3. The declaration of non-subsistence of the appointment of a public servant may be contested only through the reconsideration remedy before the same authority that mandated the decision; and through the appeal remedy, before the superior authority, whereupon the governmental recourse becomes exhausted.
Article 4. Neither Chapter VI, Heading I, of Volume III of the Labour Code, nor Article 137 of Law N° 8 of February 25, 1975 shall be applicable for purposes of the application of this Law, in the case of the workers’ unions of the public sector, Section Two.
Article 5: To the extent that they are contrary to it, this law changes the provisions contained in Law N° 8 of February 25, 1975, Law N° 34 of September 26, 1979, Laws numbers 38 and 39 of September 27, 1979, Law N° 40 of September 28, 1979, and any other provision found to be contrary to it.
Article 6: This is a public order law, which shall have a retroactive effect as of December 4, 1990.
Article 7: This Law shall enter into force as of the date of its issuance, and shall remain in force until December 31, 1991.

105. The Preamble of the Convention reaffirms the determination of the American States “to consolidate in [the American Continent], within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man.” In like manner, Article 29(c) of the Convention points out that no provision of this treaty can be

interpreted in the sense of “precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government.”

106. With respect to the preceding item, it is desirable to analyse whether Article 9 of the Convention is applicable to the administrative punitive action, in addition to it’s being evidently applicable in the penal realm. The terms used in such precept seem to refer exclusively to the latter. However, it is appropriate to take into account that administrative sanctions, as well as penal sanctions, constitute an expression of the State’s punitive power and that, on occasions, the nature of the former is similar to that of the latter. Both, the former and the latter, imply reduction, deprivation or alteration of the rights of individuals, as a consequence of unlawful conduct. Therefore, in a democratic system it is necessary to intensify precautions in order for such measures to be adopted with absolute respect for the basic rights of individuals, and subject to a careful verification of whether or not there was unlawful conduct. Likewise, and for the sake of legal security, it is indispensable for the punitive rule, whether of a penal or an administrative nature, to exist and to be known or to offer the possibility to be known, before the action or omission that violate it and for which punishment is intended, occurs. The definition of an act as an unlawful act, and the determination of its legal effects must precede the conduct of the subject being regarded as a violator. Otherwise, individuals would not be able to orient their behaviour according to a valid and true legal order within which social reproach and its consequences were expressed. These are the foundations of the principles of legality and unfavourable non-retroactivity of a punitive rule. [FN54]

[FN54] Cfr. inter alia, Eur. Court H.R. Ezelin judgment of 26 April 1991, Series A. no. 202, para. 45; and Eur. Court H.R. Müller and Others judgment of 24 May 1988, Series A no. 133. para. 29.

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107. In sum, under the rule of law, the principles of legality and non-retroactivity govern the actions of all bodies of the State in their respective fields of competence, particularly when the exercise of that punitive power where the State manifests with the maximum strength one of its most serious and intense functions vis-à-vis human beings: repression, applies.

108. Concerning the principle of legality, Law 25 contained only a very broad and imprecise concept on possible unlawful conduct, whose specific characteristics were not established exactly, their being characterised only under the concept of participation in acts contrary to democracy and the constitutional order.

109. With respect to the principle of unfavourable non-retroactivity in the instant case, Law 25 entered into force on December 14, 1990, and was applied retroactively to the 4th of the same month and year. The letters of dismissal delivered to the workers represent administrative actions performed according to a law that did not exist at the time of the events. The dismissed workers were being informed that their dismissal was due to participation in the organisation, convocation or implementation of actions that attempted against democracy and the constitutional order, and they pointed to participation in the national work stoppage as the conduct that attempted against democracy and the constitutional order.

110. The State argued that the dismissals made before the publication of Law 25 were not based on the latter. However, the Tribunal makes the observation that the very law that is mentioned provides, in its Article 1, that it shall be applied not only to those who may take part in "actions that attempt against democracy and the constitutional order," but also to those who took part in them. That provision is consistent with the rationale of the draft submitted by the Government to Congress, which became Law 25. In the initial part of said rationale, the following was expressed:

[the] draft bill submitted shall empower the national government to dismiss all those public servants or trade union leaders who took part in the organisation, convocation and implementation of the national work stoppage attempted on December 5 last and which, as has been proven, was closely related to the uprising towards a coup d'état led by Mr. Eduardo Herrera. (The italics are not from the original).

111. The Court also makes the observation that, although it had ample opportunities to do so throughout the proceedings, and in spite of its argument that it implemented the dismissals supported by legal basis other than Law 25, the State abstained from indicating which such alleged legal basis was.

112. Furthermore, the Tribunal ascertains that the State's argument to which reference has been made is contrary to the considerations expressed by the Third Section of the Supreme Court in resolving the full-jurisdiction administrative conflicts actions brought, since, for instance, in its judgment of June 30, 1993, said Section stated that

[in] the legal matter subject to judgment, the General Manager of the INTEL, on the basis of what Law 25 of 1990 established, identified each one of the complaining workers as participants in the organisation, convocation or implementation of actions that attempted against democracy and the constitutional order, and declared non subsistent the appointments of the identified workers. (The italics are not from the original).

The Section to which reference has been made finds similar considerations in other administrative conflicts judgments handed down.

113. The dismissal letters delivered before the issuance of Law 25 do not mention such Law, and it was indeed mentioned in most of the letters delivered after the entry into force of the cited rule. However, the procedure established in Law 25 was applied to all the workers regardless of the date of dismissal, not that established in the legislation in force at the time of the events, despite the fact that such legislation was of greater benefit for the State workers.

114. It is important to point out that the "paragraph" of Article 2 of Law 25 indicated that the Executive Body, through the Cabinet Council, would determine which actions were regarded as attempts against democracy and the constitutional order for purposes of "applying the dismissal administrative sanction." It wasn't until January 23, 1991, through Resolution 10 published in the Official Gazette N° 21.718 of February 4, 1991, that said Council determined that "the work stoppages and abrupt collective interruptions of the work in the public sector attempted against

democracy and the constitutional order." Since most of the dismissals were effected before the publication of this Resolution, they were made on the basis of a characterisation of behaviours – attempting against democracy and the constitutional order through a work stoppage- that would come into being only after the occurrence of the events. Furthermore, the Supreme Court declared, through judgment of May 23, 1991, that the "paragraph" of Article 2 of Law 25 was unconstitutional "since it attribut[ted] to the Cabinet Council a function that pertains [exclusively to a jurisdictional organ, such as…] the Supreme Court," and because it "violat[ed] section 14 of Article 179 of the Constitution, which attributes exclusively the power to regulate the laws to the President of the Republic with the respective Minister."

115. From the foregoing it can be clearly concluded, in the opinion of the Tribunal, that the actions of the State that resulted in the dismissal of workers who are the alleged victims in the instant case, were done in violation of the principle of legality, which must govern the actions of public administration. For all these reasons, the Court concludes that the State violated the principles of legality and non-retroactivity established in Article 9 of the American Convention, to the detriment of the 270 workers listed in paragraph 4 of this Judgment.

X. VIOLATION OF ARTICLES 8(1), 8(2) AND 25 (RIGHT TO A FAIR TRIAL AND RIGHT TO JUDICIAL PROTECTION)

Arguments of the Commission

116. Concerning Article 8 of the Convention, the Commission argued that:

a) it is not possible to construe the due process as being limited to judicial actions; it must be guaranteed in all proceedings or actions of the State that may affect the rights and interests of individuals;
b) there is an identity between the principles that inspire penal law and those that inspire punitive administrative law, since both rights are expressions of the State's punitive power;
c) in the exercise of discretional powers, the administration must act according to legality and the general principles of rationality, reasonableness, and proportionality, permitting those who are the objects of administrative actions to exercise their right to defence;
d) disciplinary sanctions can be applied legally only by the competent administrative authority, as a result of an administrative procedure that respects Article 8 of the Convention;
e) no administrative procedure was implemented before the determination was made to proceed with the dismissals, and the latter were arbitrary because they were made without respect for the basic guarantees. The Supreme Court, in its May 23, 1991, judgment, pointed out that the public employees separated from the service were subject to discretional appointment and dismissal, and that the authority with competence to dismiss them was the same authority that appointed them;
f) as to the right to be heard, the claim of the petitioners was never heard by the authorities of the State, who proceeded to dismiss them massively, based on the mere identification by the head of the State entity, who was not capable of certifying either the participation of the employee in the work stoppage, or her or his attendance at work. Law 25 created a special summary procedure to regulate the sanction of massive dismissal of the State workers, thus

harming their right to defence. This right must be respected in both, judicial, and administrative proceedings.

g) concerning the right to appear before a judge or an independent and impartial tribunal, the allegedly unlawful action –participation in an armed movement intended to topple the constitutional government- was not brought to the knowledge of a judge or an independent and impartial tribunal to ensure its establishment with all due guarantees. The cases were arbitrarily submitted to procedures and bodies established a posteriori by Law 25. The claims were taken into consideration and resolved by officials under the Executive Branch, not under the labour jurisdiction, as to dismissals, or under the penal jurisdiction, as to alleged offences, which were the competent and impartial jurisdictional bodies. This violation was confirmed by the judgment of the Supreme Court of May 23, 1991, which declared that the Cabinet Council acted unconstitutionally in exercising a duty of the exclusive competence of the Judicial Branch.

h) the right to a competent tribunal was eliminated as of the issuance of Law 25, since Executive Branch bodies tried the dismissed workers. The administrative officials acted ultra vires; they usurped jurisdiction and invaded powers of the regular judicial bodies when they determined the liability of the workers and acted as guardians of the interests of the administration, rather than protectors of the workers' rights. The regular judicial authority established previously in the law is the competent court, the specialised courts being excluded;

i) the right to the presumption of innocence, is established in Article 22, paragraph two, of the Constitution of Panama, and in Article 1966 of the Justice Code. Without having set forth and proven the events subject to judgment, and without having proven guilt in a public proceeding with all due guarantees, the State presumed the liability of the petitioners and proceeded to punish them with dismissal from their positions. The workers were unduly punished; the State did not presume their innocence, nor did it offer them a fair trial. In the dismissal notes the national work stoppage was associated with the military uprising, and the State presumed that the workers had taken part in the organisation of actions that attempted against the democratic government and the constitutional order.

117. As to Article 25 of the Convention, the Commission argued that

a) the 270 workers were deprived of their right to an effective recourse, not only when the Supreme Court rejected the Law 25 unconstitutionality action, but also when the Third Section of said Supreme Court rejected seven administrative conflicts actions brought against the dismissals;

b) the administrative judicial recourse was ineffective. The actions brought by the workers were rejected by means of arguments that led to such result;

c) despite the fact that the workers filed remedies with the Third Administrative Conflicts Section of the Supreme Court to obtain a judicial remedy for their protection, the rejection thereof left them unprotected;

d) ineffectiveness and denial of the right to petition constitute one of the reasons why the events were denounced before the Commission;

e) when the Supreme Court declared unconstitutional one paragraph of Law 25, it caused the validity of the rest of such law to be questioned since, if the entity that made the selection, determined the liabilities and applied the dismissal sanction of the State employees acted unconstitutionally, its acts were absolutely null and void, and the rest of Law 25 remained inapplicable because it referred to the dismissal action. The violation of Article 25(2)(c) of the

Convention was proven when the unconstitutionality remedy filed against Law 25 was declared partially well founded. If the legal rules are derogated when found to be unconstitutional, the jurisdictional actions performed on the basis of such rules must be declared null and void; and

f) the Supreme Court declared the unconstitutionality of one part of Law 25, but it did not invalidate the judgments handed down in compliance with such part of the law as was declared unconstitutional.

Arguments of the State

118. For its part, the State argued, concerning Articles 8 and 25 of the Convention, that:

a) the 270 public servants whose appointments were declared non subsistent had the opportunity to contest, in the administrative domain, the declarations of termination of employment. They should have filed the reconsideration remedy with the authority that made the decision, and the appeal remedy with the superior authority;

b) in the administrative proceedings that correspond to the governmental domain, which start with the filing of a reconsideration remedy, the claimant had the opportunity to set forth and contribute items of evidence in support of her or his cause. The reconsideration remedies rejected in the administrative domain could be revised by the Third Section of the Supreme Court;

c) the procedural rights were always respected. The petitioners intervened in proceedings established against the State; they offered evidence, exercised their right to the respective remedies, and even brought an action of unconstitutionality;

d) in alleging inefficacy of the remedies, the Commission did not prove that they were rejected without having examined their validity. The fact that an internal recourse does not generate a favourable result for the claimant does not prove the absence or exhaustion of the remedies;

e) the unconstitutionality remedy is not ineffective for having failed to take into account factual considerations;

f) the Supreme Court cannot, in a judgment of unconstitutionality, order the reinstatement of dismissed officials or the payment of unpaid salaries; it can declare only whether or not a legal rule is unconstitutional. The annulment of the actions performed under the “paragraph” of Article 2 of Law 25, which was declared unconstitutional, should have been pursued through an administrative conflicts proceeding, not through an unconstitutionality remedy;

g) the rules of the due process and the consequent judicial guarantees were complied with in Panama. Law 25 allowed the workers to appear before a previously-constituted court, and afforded them access to the highest court of the Republic, the Supreme Court;

h) the petitioners benefited from the legal due process, they had the right to be heard by a court that had been previously established by the law, and the possibility to file applications with a competent, independent and impartial court;

i) the public official status of the workers of the IRHE and the INTEL has not been placed in doubt, and the declaration of non-subsistence of their appointments is a typical administrative act in labour relations. If it were deemed that the natural judge of these workers was the labour judge, it would have to be concluded that, in allowing them to have access to the Third Section of the Supreme Court, their right to be heard by labour courts was recognised, since this Section is the highest labour court in Panama;

j) the 270 petitioners were not tried by the Cabinet Council;

k) the State institutions did not apply Law 25 for the detachment of the petitioners from their jobs;
l) the presumption of innocence is a penal guarantee. Detachment from the job is an administrative conflicts matter or a labour relations matter, by virtue of which the principle of presumption of innocence may not be applied to them; and
m) when the administrative career does not prevail, as was the case in Panama at the time of the events, there prevails the discretional appointment system, in such a way that the authority that appoints the employee may dismiss her or him.

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Considerations of the Court

119. Article 8 of the Convention, in sections 1 and 2, establishes that:

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.
2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:

a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
b. prior notification in detail to the accused of the charges against him;
c. adequate time and means for the preparation of his defense;
d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
g. the right not to be compelled to be a witness against himself or to plead guilty; and
h. the right to appeal the judgment to a higher court.

120. Article 25 of the Convention states that:

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:

a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
b. to develop the possibilities of judicial remedy; and
c. to ensure that the competent authorities shall enforce such remedies when granted.

121. Since both, administrative, and judicial proceedings were implemented in the instant case, they shall be analysed separately.

ADMINISTRATIVE PROCEEDING

122. This Court must analyse first the realm of applicability of Law 25, in order to consider later whether or not the State violated Articles 8 and 25 of the American Convention.

123. It is evident that Law 25 does not refer to penal matters, since it does not characterise an offence nor does it sanction through the imposition of a punishment. Contrary to this, it deals with an administrative or labour relations matter. Therefore, the determination of the realm of influence of Article 8 of the Convention, in particular whether or not it is applied only to penal proceedings, corresponds to this Court.

124. Although Article 8 of the American Convention is entitled “Right to a Fair Trial,” its application is not limited to judicial remedies in a strict sense, “but [to] all the requirements that must be observed in the procedural stages,”(This translator's version of the quotation.) in order for all persons to be able to defend their rights adequately vis-à-vis any type of State action that could affect them. [FN55] That is to say that the due process of law must be respected in any act or omission on the part of the State bodies in a proceeding, whether of a punitive administrative, or of a judicial nature.

[FN55] cfr. Constitutional Court Case. supra, note 7, para. 69; and Judicial guarantees in States of Emergency (art. 27.2, 25 and 8 American Convention on Human Rights). Advisory Opinion OC-9/87 of October 6, 1987. Series A N° 9, para. 27.

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125. The Court makes the observation that the range of minimum guarantees established in section 2 of Article 8 of the Convention is applied to the realms to which reference is made in section 1 of the same Article, that is, “the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.” This reveals the broad scope of the due process; the individual has the right to the due process as construed under the terms of Articles 8(1) and 8(2) in both, penal matters, as in all of these other domains.

126. In any subject matter, even in labour and administrative matters, the discretionality of the administration has boundaries that may not be surpassed, one such boundary being respect for human rights. It is important for the conduct of the administration to be regulated and it may not invoke public order to reduce discretionally the guarantees of its subjects. For instance, the administration may not dictate punitive administrative actions without granting the individuals sanctioned the guarantee of the due process.

127. The right to obtain all the guarantees through which it may be possible to arrive at fair decisions is a human right, and the administration is not exempt from its duty to comply with it. The minimum guarantees must be observed in the administrative process and in any other procedure whose decisions may affect the rights of persons.

128. The European Court has pronounced itself on this subject, pointing out that:

…the principles stipulated in paragraph 2 (art. 6-2) and 3 (to wit, sections a, b and d) […of the European Convention of Human Rights] are applied mutatis mutandis to the disciplinary proceedings to which section 1 refers (art. 6-1), in the same manner in which they are applied to cases where a person is charged with an offence of a penal nature. [FN56]

[FN56] cfr., inter alia, Eur.Court. H.R., Albert and Le Compte judgment of 10 February 1983, Series A no. 58, para 39.

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129. Justice, done through the due process of law, as a legally protected true value, must be ensured in all disciplinary proceedings, and the States cannot evade such obligation based on the argument that the due guarantees of Article 8 of the American Convention do not apply in the case of disciplinary and not penal sanctions. Allowing the States to make such interpretation would be equivalent to leaving up to their free will the decision of whether or not to observe the right of all persons to a due process. [FN57]

[FN57] cfr., inter alia, Eur. Court. H.R., Campbell and Fell judgment of 28 June 1984, Series A no. 80, para. 68; Eur. Court H.R., Deweer judgment of 27 February 1980, Series A no. 35, para. 49; and Eur. Court H.R., Engel and others judgment of 8 June 1976, Series A no. 22, para. 82.

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130. The general directors and the boards of directors of the State enterprises are not either judges or tribunals in a strict sense; however, in the instant case the decisions adopted by them affected rights of the workers, for which reason it was indispensable for said authorities to comply with what was stipulated in Article 8 of the Convention.

131. Despite the State's allegation that there was no administrative career in Panama at the time of the events in the instant case (December 1990) and that, consequently, administrative discretionality which permitted the free appointment and removal of public servants prevailed, this Tribunal feels that the due process must be safeguarded in any circumstance where an administrative sanction is imposed on a worker. In this respect it is important to distinguish between discretional powers, which the governments may have to remove personnel in strict consistency with the needs of public services, and the attributions related to punitive power, since the latter may be exercised only subject to the due process.

132. In the case under study, the punitive administrative act is the content of the dismissal note delivered to the 270 workers of the following State institutions: National Port Authority, Bayano Cement State Enterprise, National Telecommunications Institute, National Renewable Natural Resources Institute, National Water and Sewerage Institute, Water Resources and Electric Power Institute, Ministry of Public Works, and Ministry of Education.

133. The victims of this cause were not subjected to an administrative proceeding prior to the dismissal sanction. The President of the Republic determined that there was a link between the work stoppage of the State workers and the movement of colonel Eduardo Herrera-Hassán and, on such basis, he ordered that the workers who had taken part in said work stoppage be dismissed, in presumption of their guilt. Even the method used to determine who had participated in the organisation, convocation or implementation of the national work stoppage held December 5, 1990, that is, the identification of those charged, by the official of each institution, using in some cases "reports" prepared by different heads at the institution, was a denial to the workers of a formal proceeding prior to dismissal. Once the worker who had supposedly violated the rule was identified, she or he was dismissed by the delivery of a letter, without being allowed to present arguments and evidence for her or his defence. Once the sanction was imposed, the public servant had the possibility to request reconsideration of the measure to the same authority that had dismissed her or him, as well as to appeal before the immediate superior of said authority. However, as shown by the evidence in the instant case, not all remedies filed were even answered, which implies a violation of the right to appeal.

134. The Court is not oblivious to the fact that the dismissals, made without the guarantees of Article 8 of the Convention, had serious social and economic consequences for the persons dismissed and their relatives and dependants, such as the loss of income and a reduction of the living pattern. There is no doubt that, in applying a sanction with such serious consequences, the State should have ensured to the worker a due process with the guarantees provided for in the American Convention.

THE JUDICIAL PROCEEDING

135. Concerning the different judicial proceedings initiated by the different State workers, it is appropriate to point out that they were of three types, to wit: a) constitutional rights protection remedies filed with the Full Supreme Court; b) actions of unconstitutionality against Law 25 filed also with the Full Supreme Court; and c) full-jurisdiction administrative conflicts actions brought before the Third Section of the Supreme Court.

136. The Court must reiterate that the judicial proceedings were based on the application to the dismissed workers of Law 25, which was not in effect at the time of the events that led to the dismissal, and which this Tribunal deems as contrary to the principle of legality and non-retroactivity (supra para. 115). Precisely the cited Law 25 derogated the legal rule that provided for the proceedings applicable at the time of the events for which they were dismissed.

137. Article 8(1) of the Convention establishes the guidelines of the so-called "due process of law," which consists of the right of all persons to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial judge or tribunal, previously

established by law, in the substantiation of any accusation of a criminal nature made against her or him or for the determination of her or his rights. [FN58] Article 8(2) of the Convention establishes, additionally, the minimum guarantees that must be ensured by the States in consistency with the due process of law. For its part, Article 25 of the Convention instructs that a simple and prompt recourse be provided for the protection of the rights of persons.

[FN58] cfr. Genie Lacayo Case. Judgment of January 29, 1997, Series C N° 30, para. 74.

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138. The reason to file the 49 constitutional guarantee protection remedies that were filed with the Full Supreme Court by the dismissed workers, was that Conciliation and Decision Board N° 5, the tribunal responsible for hearing cases of the workers dismissed from certain State institutions at the time of the events that occurred December 4 and 5, 1990, had decided not to admit such cases because of its being incompetent by virtue of Law 25. It is important to point out that, in accordance with Article 91(b) of the Judicial Code of Panama, the Full Supreme Court is the body responsible to hear civil rights protection remedies. In resolving about such civil rights protection remedies, the Supreme Court determined that Conciliation and Decision Board N° 5 had to admit the cases and support the reasons why it did not regard itself competent to hear them. The constitutional rights protection remedies were, therefore, dealt with by the Supreme Court, but only to decide that Conciliation and Decision Board N° 5 had to demonstrate its incompetence, that is, in such a way that no decisions were being made on the problem of the dismissal, nor concerning the provisions in Article 25 of the Convention.

139. Next, some workers requested the Supreme Court, through unconstitutionality actions, to declare that Law 25 was contrary to the Panamanian Constitution, to the American Convention, and to the International Covenant on Civil and Political Rights. According to Article 203(1) of the Panamanian Constitution, the Full Supreme Court is the entity responsible for hearing unconstitutionality cases. The three actions were accumulated, and on May 23, 1991, the Supreme Court handed down its judgment, whereby it declared that only the “paragraph” of Article 2 of Law 25 was unconstitutional.

140. Since Law 25 was considered constitutional and it derogated the rules in force at the time of the events, from its having a retroactive effect, the workers had to bring administrative conflicts actions before the Third Section of the Supreme Court. During these proceedings, the workers did not have broad possibilities to be heard in the search for clarification of the events. In order to determine that the dismissals were legal, the Third Section based itself exclusively on the fact that it had been declared that Law 25 was not unconstitutional and that the workers had participated in the work stoppage contrary to democracy and the constitutional order. Nor did the Third Section analyse the real circumstances of the cases or whether or not the dismissed workers had committed the acts for which they were being punished. Thus, it did not take into consideration the reports on which the directors of the different institutions based themselves to determine the participation of the workers in the work stoppage, such reports not being even accounted for, according to the evidence submitted, in the internal records. In handing down a judgment on the basis of Law 25, the Third Section did not take into consideration that such Law did not establish which actions attempted against democracy and the constitutional order. Thus,

in charging the workers with participation in an interruption of activities that attempted against democracy and the constitutional order, they were being found guilty without having had the possibility, at the time of the work stoppage, to know that their participation in the latter was cause for such a severe sanction as dismissal. The attitude of the Third Section is still more serious when taking into consideration that it was not possible to appeal its decisions, by virtue of the fact that its judgments were final and unappealable.

141. The State did not provide elements on the cases of all the workers, and it may be concluded, on the basis of those which it did provide, that the internal recourses were ineffective in relationship to Article 25 of the Convention. It is thus evidenced that the courts did not observe the due process of law, or the right to an effective recourse. As already expressed, the recourses attempted were not appropriate to solve the problem of the dismissal of the workers.

142. There is no indication, in the entirety of the evidence in the instant case, that all the workers would have filed unconstitutionality remedies, constitutional guarantee protection remedies, and administrative conflict actions. However, the State did not provide individualised information or analysed separately the cases of alleged victims; nor did it contest or place in doubt the fact that several of these persons filed the alleged remedies, but it simply submitted arguments on the group of 270 workers who appeared as alleged victims in the instant case.

143. Based on the aforesaid and, particularly, on the silence of the State concerning specific cases, the Court concludes that the State violated Articles 8(1), 8(2), and 25 of the American Convention, to the detriment of the 270 workers listed in paragraph 4 of this Judgment.

XI. ARTICLE 15 (RIGHT OF ASSEMBLY)

Arguments of the Commission

144. Concerning Article 15 of the Convention, the Commission alleged that:

a) this right is of an instrumental nature; it serves as support for exercising the rest of the basic rights and permits the attainment of goals not expressly prohibited by the law;
b) the Supreme Court maintained that Law 25 did not prohibit the right of assembly, and that the dismissal was justified by actions that the legislative and executive branches construed as attempts against the stability and existence of the Government itself. However, by meeting peacefully and publicly in a demonstration, the workers did not commit any illegal act. Since the work stoppage did not take place, it is clear that the workers were dismissed for participating in the demonstration of December 4, 1990;
c) the law in force authorised public demonstrations and indicated that, for purposes of meeting peacefully and publicly it was not necessary to ask for permission, but only to notify the authorities 24 hours in advance. The State workers complied with this requirement, since they notified more than one month in advance about their intention to exercise this right; and
d) the workers were dismissed for participating in a demonstration that was authorised by the law and by Article 38 of the Constitution of Panama. Although the law did not prohibit meetings, the workers who used this right were punished.

Arguments of the State

145. For its part, the State argued that:

a) Law 25 does not restrict the right to assembly. It may not be said that the administrative sanctions regulated under such Law violate the cited right;
b) if the criterion that Law 25 violates the right to assembly were maintained, it would be appropriate to point out that Article 15 of the Convention, in relation to its Articles 27, 30, and 32, permits the establishment of restrictions to this right, in situations where there is either a threat against the independence and security of the State or any other public danger. These rules indicate that the limitations must be established by law, for which reason Law 25 establishes administrative sanctions in the event of an attempt against the public order, the common good, and the independence and security of the State;
c) it is false that the 270 claimants would have been dismissed from their positions for having participated in the December 4, 1990, march and that this violated the right to assembly. In no dismissal letter are those affected advised that the termination of their employment was due to their participation in the march; such termination of employment was due to their participation in an illegal work stoppage that took place December 5, 1990, in several public institutions; and
d) the Panamanian Government did not stand in the way of the previously announced march, which took place without problems.

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Considerations of the Court

146. Article 15 of the Convention establishes that

[t]he right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.

147. In the instant case, the State always maintained that the right to assembly was never thwarted, and that the measures in relationship to the work stoppage of December 5, 1990, were adopted because it attempted against democracy and the constitutional order. In any event, it is the duty of the Court to analyse whether or not the right to assembly was violated by the State.

148. According to the entirety of the evidence in the instant case, the December 4, 1990, march took place without any interruptions or restrictions. It is also shown that the letters of dismissal of the workers do not mention the march, and in most of the cases they declare non-subsistent the appointments of the public servants who took part in the "organisation, convocation or implementation of a national work stoppage that took place December 5, 1990."

149. No proof emerges from the entirety of the evidence in the instant case that indicates that the dismissed workers would have in any way been interfered with in their right to gather in "peaceful assembly, without arms." Furthermore, and as has already been said, not only was the

December 4, 1990, march -a clear expression of the right under consideration- not prohibited or interfered with in any manner, but it was, according to several testimonies gathered by the Tribunal, accompanied by agents of the public force, who ensured normal development thereof.

150. By virtue of the preceding arguments, the Court concludes that the State did not violate, to the detriment of the 270 workers listed in paragraph 4 of this Judgment, the right to assembly established in Article 15 of the American Convention.

XII. VIOLATION OF ARTICLE 16 (FREEDOM OF ASSOCIATION)

Arguments of the Commission

151. Concerning Article 16 of the Convention, the Commission argued that:

a) Law 25 does not prohibit the freedom of association, but if the workers of the State exercise it, the cited Law penalises them for it. This Law imposed sanctions on those who legitimately exercised such freedom;
b) the demonstration and the convocation to a work stoppage were legitimate activities inherent to the exercise of the freedom of trade union association, because of the failure of the negotiation between the Co-ordinating Organisation of State Enterprise Workers' Unions and the Government;
c) both, the Government, and the directors of the State enterprises had knowledge sufficiently in advance of the trade union activities scheduled by the workers;
d) the work stoppage was not formally declared illegal by the State;
e) the work stoppage did not take place; it was suspended in the early hours of the morning;
f) Law 25 penalised the State workers' associations, which were, since October 8, 1990, committed to obtain recognition for a number of rights; this Law refers to the workers' unions of the public sector, which were directly affected since the dismissals were made selectively;
g) the premises of the State workers' associations were taken by the public force, their members were expelled, pursued or detained, and their facilities were looted; there was even intervention of their funds and checking accounts that consisted of membership contributions;
h) there never was a link between the armed plan to subvert the constitutional order and the workers' convocation to a work stoppage;
i) the 270 workers were dismissed because of their active membership in a trade union;
j) in declaring that the work stoppages and the abrupt collective interruptions of the work in the public sector attempted against democracy and the constitutional order, Resolution 10 of January 23, 1991, violated the freedom of association right;
k) the ILO Labour Union Freedom Committee stated that Law 25 attempted seriously against the exercise of this freedom by the workers' unions; and
l) respect for the right to associate implies not only having to abstain from intervening at the time when those who become associated proceed to form the group, but also abstaining from intervening in the course of the activities that the group legitimately performs, and abstaining from imposing, a posteriori, unfavourable consequences on its members.

Arguments of the State

152. For its part, the State argued that:

a) the limitations imposed for the use and enjoyment of this right are the same as those imposed for other rights: public order, national security, public morals, or the rights of others;
b) Law 25 refers to individuals, not to collective workers' organisations, and the administrative sanctions that it imposes are not aimed against those who exercised legitimately the freedom of association, but against those who participated in the organisation, convocation or implementation of actions that attempted against democracy and the constitutional order;
c) there is no evidence that proves that the 270 workers were dismissed from their positions for belonging to a trade union organisation;
d) the right to strike is not a part of the right to associate. As a right of the workers, the strike may be called by them only subject to vote at the general assembly; and
e) the collective work stoppage was a "savage stoppage" or "militant stoppage," outside the bounds of the law. This type of work stoppage is a justified cause for dismissal, since it lies on the margin of legallity, and since it implies the abandonment or interruption of the work by the worker. The stoppage may not be legally qualified as merely an unjustified absence on a working day.

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Considerations of the Court

153. Article 16 of the Convention points out that:

1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.
2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.
3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

154. In the instant case, the State permanently maintained that freedom of association was never hampered, and that, on the occasion of the December 5, 1990, work stoppage, the measures adopted were taken because the stoppage attempted against democracy and the constitutional order. In any event, it is up to the Court to analyse whether or not freedom of association was violated by the State.

155. In the first place, it must be reiterated that Article 1 of Law 25 stipulated that:

In order to preserve the constitutional order, authorisation is hereby granted to the Executive Branch and to the directors of autonomous and semi-autonomous institutions, State enterprises, municipal enterprises, and other public entities of the State to declare non subsistent the appointments of those public servants who took part and who may take part in the organisation, convocation or implementation of actions that attempt against democracy and the constitutional order, whether or not they hold positions on the boards of directors of trade union organisations,

and of public servant associations; their delegates and trade union or sectoral representatives, directors of public servant associations regardless of whether or not they enjoy trade union powers or whether or not they are governed by special laws. (The italics are not from the original).

156. In considering whether or not, in the case in question, there was violation of the freedom of association, it must be analysed in relationship with labour union freedom. In labour union matters, freedom of association consists basically of the ability to constitute labour union organisations, and to set into motion their internal structure, activities and action programme, without any intervention by the public authorities that could limit or impair the exercise of the respective right. On the other hand, under such freedom it is possible to assume that each person may determine, without any pressure, whether or not she or he wishes to form part of the association. This matter, therefore, is about the basic right to constitute a group for the pursuit of a lawful goal, without pressure or interference that may alter or denature its objective.

157. The Preamble of the ILO Constitution includes the "recognition of the principle of freedom of association" as an indispensable requirement for the attainment of "universal and lasting peace." [FN59]

[FN59] cfr. also ILO. Convention 87 Concerning Freedom of Association and Protection of the Right to Organise, of June 17, 1948, and Convention 98 Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, of June 8, 1949.

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158. This Court feels that, in trade union matters, freedom of association is of the utmost importance for the defence of the legitimate interests of the workers, and falls under the corpus juris of human rights.

159. In labour matters, and pursuant to the terms of Article 16 of the American Convention, freedom of association includes a right and a freedom, to wit: the right to form associations without restrictions other than those permitted according to sections 2 and 3 of that conventional precept, and the freedom of all persons not to be compelled or forced to join the association. The November 17, 1988, San Salvador Protocol, in its Article 8(3), contains the same idea, and specifies that, in trade union matters "[n]o one may be obliged to belong to a labour union."

160. The entirety of the evidence in the instant case shows that, in dismissing the State workers, labour union leaders who were working on a number of claims were dismissed. In addition, the members or workers organisations were dismissed for acts that were not causes for dismissal according to the legislation in force at the time of the events. This proves that the intention in making Law 25 retroactive in compliance with orders from the Executive Branch, was to provide a basis for the massive dismissal of public sector trade union leaders and workers, such actions doubtlessly limiting the possibilities for action of the trade union organisations in the cited sector.

161. At the public hearing on the merits, held at the seat of the Court, the witness who was Attorney General of the Nation from December 1990 to November 1991, expressed that “very clear signals could be seen, indicating that the Government wanted [for them to] involve the trade union leaders,” and that “such messages were received [by them] in different manners,” through “semi-official messengers” (This translator's version of the quotations).On the same occasion, the expert Humberto Ricord, an attorney-at –law and a specialist in labour and constitutional law, pointed out that “the right to unionise was affected not so much as to any denial of its existence, but as to its general practice” (This translator's version of the quotation) thanks to Law 25. In like manner the witness Manrique Mejía expressed at said public hearing that he had been dismissed on December 11, 1990, because of his participation in the December 5, 1990, work stoppage, without being able to benefit from the due process to which he was entitled by his trade union status, despite the fact that he had “a permanent [labour union] permit allowed by the law, that is [his] work was at the labour union headquarters”. Furthermore, in some of the newspaper clippings that constitute the documentary evidence in the instant case, it is remarked that most of the workers dismissed were labour union leaders, which was, therefore, a public and notorious fact.

162. The ILO Labour Union Freedom Committee, in solving case N° 1569, a decision that is recorded as part of the evidence of the record before this Court, considered that “the massive dismissal of labour union leaders and workers of the public sector because of the December 5, 1990, work stoppage, is a measure that can seriously impair the possibilities for action of the public sector trade union organisations at those institutions where they are in existence,” and that, consequently, such dismissal was a serious violation of Agreement N° 98 relative to the application of the principles of the right to unionise and to collective negotiation. [FN60]

[FN60] cfr. ILO. Resolution of the Labour Union Freedom Committee in Case N° 1569 “Complaints against the Government of Panama filed by the International Confederation of Free Trade Unions (ICFTU), the Workers Union of the Institute of Water Resources and Electric Power Institute (SITIRHE) and the Workers Union of the National Teleccommunications Institute (SITINTEL),” para. 143.3.

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163. For its part, the ILO Committee of Experts on the Application of Agreements and Recommendations, in solving case N° 1569, as shown on the referenced resolution of the Labour Union Freedom Committee, asked the State to derogate Law 25, “on which the massive dismissals were based, since it felt that it seriously attempted against the exercise of the right of public workers associations to organise their activities.” [FN61]

[FN61] cfr. ILO. Resolution of the Labour Union Freedom Committee in Case N° 1569, supra note 60, para. 143.6.

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164. Concerning the alleged intervention of the State in the management of trade union funds, the ILO Labour Union Freedom Committee pointed out, in the already mentioned resolution

(supra para. 162), that “the trade union funds must be managed by the leaders designated by the trade union by-laws and without any type of interference [since] it is the members of the trade unions who should decide whether the trade union leaders should maintain the right to manage the funds of the organisations,” and requested the State to allow “the trade union leaders of the SITIRHE access to and the management of the trade union dues, according to trade union by-laws and without any type of interference.” [FN62]

[FN62] cfr. ILO. Resolution of the Labour Union Freedom Committee in Case N° 1569, supra note 60, para. 145 and 146.d.

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165. Concerning the alleged takeover of workers association premises by the public force and the alleged looting of their facilities, said Committee, in the already cited resolution (supra para. 162), reminded the State “that the necessary corollary of the inviolability of trade union premises is the impossibilitiy of public authorities to demand that they be allowed to enter into such premises without a court order authorising them to do so, since otherwise there is the risk of a serious interference of the authorities in trade union activities.” On the other hand, in its recommendations, it urged the State to ensure “that the principle of inviolability of trade union premises be fully respected in the future.” [FN63]

[FN63] cfr. ILO. Resolution of the Labour Union Freedom Committee in Case N° 1569, supra note 60, para. 144 and 146.c.

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166. The Court makes the observation that in contemplating the possibility for the dismissal of workers who held “positions on the boards of directors of trade union organisations, and of public servant associations[,] their delegates and trade union or sectoral representatives, directors of public servant associations regardless of whether or not they enjoy trade union powers” and in derogating Section Two of Chapter VI, Title I, Book III of the Labour Code, as well as Article 137 of Law 8 of February 25, 1975, Law 25, in its Article 1, was not only permitting the separation from their jobs of trade union leaders, but abrogating the rights that these latter rules granted them in regulating the process for the dismissal of workers protected by trade union rights. The provisions contained in Articles 1 and 4 of Law 25 were put into practice with retroactive effects, which permitted to ignore the procedures that had to be applied according to the legislation in force at the time of the events, and which resulted in the dismissal of a large number of trade union leaders; this affected seriously the organisation and the activity of the labour unions that held the workers together, and violated the freedom of trade union association.

167. The Court must analyse whether or not the dismissal sanctions based on Law 25 in the instant case were legitimate measures adopted with the purpose of maintaining the public order, the common good, or the independence and security of the State.

168. The American Convention is very clear in pointing out, in Article 16, that the freedom of association “shall be subject only to such restrictions established by law as may be necessary in a

democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others."

169. It is important to keep in mind that the expression "law" pointed out in Article 16 of the Convention must be interpreted in accordance with criteria previously established by this Tribunal, to wit:

[…] one cannot interpret the word laws, used in Article 30 [of the Convention], as a synonym for just any legal norm, since that would be tantamount to admitting that fundamental rights can be restricted at the sole discretion of governmental authorities with no other formal limitation than that such restrictions be set out in provisions of a general nature. Such an interpretation would lead to disregarding the limits that democratic constitutional law has established from the time that the guarantee of basic human rights was proclaimed under domestic law. Nor would it be consistent with the Preamble to the American Convention, according to which " the essential rights of man are... based upon attributes of the human personality and... they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states. "
Within the framework of the protection of human rights, the word laws would not make sense without reference to the concept that such rights cannot be restricted at the sole discretion of governmental authorities. To affirm otherwise would be to recognize in those who govern virtually absolute power over their subjects. On the other hand, the word " laws " acquires all of its logical and historical meaning if it is regarded as a requirement of the necessary restriction of governmental interference in the area of individual rights and freedoms. [FN64]

[FN64] The word "laws" in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86 of May 9, 1986. Series A N° 6, para 26 and 27.
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170. In like manner, "the Convention not only requires a law in order to legitimate restrictions to the enjoyment or exercise of rights or freedoms, but also demands that such laws be enacted for reasons of general interest and in accordance with the purpose for which such restrictions have been established." [FN65]

[FN65] The word "laws" in Article 30 of the American Convention on Human Rights, supra note 64, para. 28.
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171. In order to arrive at conclusions on whether or not the State violated the right to freedom of association, the Court takes particularly into account the assertions contained in the application of the Commission, the certifications in the record, and the Recommendations of the Labour Union Freedom Committee of the ILO in solving case N° 1569, which were neither contested nor denied by the State in connection with the following facts: a) that Law 25 was issued 15 days after the events that gave rise to the instant case; b) that the rules relative to the trade union domain were not observed in relationship to the dismissal of the workers; c) that the

workers unions' premises were blocked and that their banking accounts were intervened; and d) that numerous dismissed workers were leaders of trade union organizations.

172. No evidence has been provided to the Court to prove that the measures adopted by the State were necessary to safeguard the public order in the context of the events, nor that they maintained a relationship to the principle of proportionality; in sum, the Court feels that such measures did not meet the requirement of being "necessary in a democratic society" enshrined in Article 16(2) of the Convention.

173. In respect of the foregoing, the Court concludes that the State violated the right to freedom of association enshrined in Article 16 of the American Convention, to the detriment of the 270 workers listed in paragraph 4 of this Judgment.

XIII. NON-COMPLIANCE WITH ARTICLES 1(1) AND 2 (OBLIGATION TO RESPECT RIGHTS AND DOMESTIC LEGAL EFFECTS)

Arguments of the Commission

174. Concerning Articles 1(1), and 2 of the Convention, the Commission alleged that:

a) Panama did not comply with the obligation to respect, to ensure respect for, and to guarantee the rights of the victims in the instant case. In addition to non-compliance with judicial guarantees, the judicial authorities declared that the conventional inter-American rule could not be applied since it was not of constitutional hierarchy, thus placing international human rights treaties on a second category level. There was also non compliance with the rule under Article 1(1), since there was no reparation to the 270 workers for being arbitrarily dismissed; and
b) In ignoring that the observance of the Convention is mandatory, the Supreme Court neglected its duty as the maximum jurisdictional body of a State, to comply and ensure compliance with said treaty, as well as the duty to adjust its judicial decisions to the rules of domestic law and those of the Convention.

Arguments of the State

175. For its part, the State expressed that it did everything within its power to ensure and observe the rights enshrined in the Convention, for which reason it did not violate Article 1(1) thereof.

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Considerations of the Court

176. Article 1(1) of the Convention establishes that

[t]he States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language,

religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

177. For its part, Article 2 of the Convention determines that

where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

178. The Court has established that

[a]rticle 1(1) is essential in determining whether a violation of the human rights recognized by the Convention can be imputed to a State Party. In effect, that article charges the States Parties with the fundamental duty to respect and guarantee the rights recognized in the Convention. Any impairment of those rights which can be attributed under the rules of international law to the action or omission of any public authority constitutes an act imputable to the State, which assumes responsibility in the terms provided by the Convention.

According to Article 1(1), any exercise of public power that violates the rights recognized by the Convention is illegal. Whenever a State organ, official or public entity violates one of those rights, this constitutes a failure of the duty to respect the rights and freedoms set forth in the Convention.

This conclusion is independent of whether the organ or official has contravened provisions of internal law or overstepped the limits of his authority. under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law. [FN66]

[FN66] Caballero Delgado and Santana Case. Judgemenet of December 8, 1995. Series C N° 22, para. 56; Godínez-Cruz Case. Judgment of January 20, 1989. Series C N° 5, para. 173, 178 and 179; and Velásquez-Rodríguez Case. Judgment of July 29, 1988. Series C N° 4, para. 164, 169 and 170.

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179. In relationship with Article 2 of the Convention, the Court has expressed that

[r]egarding people's law, a customary rule prescribes that a State, which has entered into an international agreement, must introduce in its national law the necessary assumed modifications to ensure the execution of obligations assumed. This rule is universally valid and has been considered by the jurisprudence as an evident principle ("principe allant de soi"; Echange des populadons grecques et turques, avis consultatif, 1925, C.P.J.I., Series B, No. 10, p. 20). In this sequence of ideas, the Arnerican Convention states the obligation of every State Party to adapt its national law to dispositions of said Convention, to guarantee the rights recognized therein. [FN67]

[FN67] cfr. Durand and Ugarte Case, supra note 12, para. 136.

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180. In the same sense, the Tribunal has expressed that

[t]he general duty of Article 2 of the American Convention implies the adoption of measures in two ways. On the one hand, derogation of rules and practices of any kind that imply the violation of guarantees in the Convention. On the other hand, the issuance of rules and the development of practices leading to an effective enforcement of said guarantees. [FN68]

[FN68] cfr. Cantoral-Benavides Case, supra note 52, para. 178.

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181. The Court takes note of the fact that, as already pointed out in this judgment, the State violated Articles 9, 8(1), 8(2), 25 and 16 of the American Convention, to the detriment of the 270 workers, which means that it has not complied with the general duty established in Article 1(1) of the Convention to respect the rights and freedoms and to ensure the free and full exercise of those rights and freedoms.

182. As this Court has indicated, the States Parties to the American Convention may not adopt legislative or any other type of measures that violate the rights and freedoms therein recognised, because this would violate not only the conventional rules that enshrine the respective rights, but Article 2 of the Convention as well. [FN69]

[FN69] cfr. Cantoral-Benavides Case, supra note 52, para. 176; and International Liability for the Issuance and Application of Laws that Violate the Convention (articles 1 and 2 of the American Convention on Human Rights), Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 36.

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183. In the instant case, the issuance and application of Law 25 retroactively violate conventional precepts and reveal that the State has not taken the appropriate domestic law measures to put into effect the rights enshrined in the Convention. In issuing a law, the State must ensure that it adjust to international protection rules, and must not permit its being contrary to the rights and liberties provided for in an international treaty to which it is a Party.

184. In respect of the foregoing, the Court concludes that the State failed to comply with the general obligations under Articles 1(1) and 2 of the American Convention.

XIV. RECOMMENDATIONS OF THE COMISSION ISSUED IN REPORT N° 26/99

Arguments of the Commission

185. The Commission pointed out that Panama did not comply with the recommendations of its Report N° 26/99 since it did not deem them to be mandatory and excused itself from compliance therewith invoking its own domestic law. Consequently, it requested the Court to declare that the State violated the duty to comply in all good faith with its recommendations, as per Articles 33 and 50(2) of the Convention.

Arguments of the State

186. For its part, the Panamanian State expressed that it had not become subject to international liability for non-compliance with the recommendations of the Commission, since such non-compliance was not a violation of Articles 33 and 50(2) of the Convention, the recommendations not being of a mandatory jurisdictional decision nature. In like manner, Panama stated that mandatory compliance recommendations are those of the report under Article 51 of the Convention, such report not having been prepared in the instant case, since the latter was referred to the Court for its consideration. Lastly, the State affirmed that Article 33 refers to the competence that the Commission has, to hear matters relative to compliance with the Convention, and that it is not related to the obligations of the State according to such treaty.

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Considerations of the Court

187. Article 33 of the Convention points out that

The following organs shall have competence with respect to matters relating to the fulfillment of the commitments made by the States Parties to this Convention:

a. the Inter-American Commission on Human Rights […]

188. For its part, Article 50 of the Convention establishes that

1. If a settlement is not reached, the Commission shall, within the time limit established by its Statute, draw up a report setting forth the facts and stating its conclusions. If the report, in whole or in part, does not represent the unanimous agreement of the members of the Commission, any member may attach to it a separate opinion. The written and oral statements made by the parties in accordance with paragraph 1.e. of Article 48 shall also be attached to the report.
2. The report shall be transmitted to the states concerned, which hall not be at liberty to publish it.
3. In transmitting the report, the Commission may make such proposals and recommendations as it sees fit.

189. The Court has made the observation that:

Article 50 of the Convention concerns the preparation of a report by the Commission that is transmitted to the State, which may not publish it; it contains a series of recommendations to be

complied with to settle the matter. If, within the three months following the transmittal of the report to the State, the matter has not been settled and the Commission considers that the State did not comply, it has two options: to refer the case to the Court, by filing an application or to draw up the report referred to in Article 51 of the Convention, which, by the vote of an absolute majority of its members, shall set forth its opinion and conclusions concerning the question submitted for its consideration. As in the Article 50 report, in the Article 51 report, the Commission shall prescribe a period within which the State must take the necessary measures to comply with the recommendations and, thus, remedy the situation that is being examined. Lastly, once this period has expired, the Commission shall determine whether the State has complied and, if appropriate, decide whether to publish the report (cfr: Articles 50 and 51 of the Convention). The Court has already stated that this decision is not discretional, but rather "should be based on the alternative most favourable for the protection of the human rights" established in the Convention. (Certain Attributes of the Inter-American Commission on Human Rights (Articles 41, 42, 44, 46, 47, 50 and 51 of the American Convention on Human Rights), Advisory Opinion OC-13/93 of July 16, 1993. Series A No. 13, para. 54).
Once a case has been referred to the Court, the provisions of Article 51 of the Convention are not applicable, because the filing of an application is subject to the condition that the report in this article has not been published. If the Commission prepares or publishes the report under Article 51, despite having presented the case to the Court, it is clear that it has applied the Convention improperly. In view of the foregoing, Panama interpreted the applicable rules erroneously. [FN70]

[FN70] Baena Ricardo et al. Case, Preliminary Objections. Judgment of November 18, 1999. Series C N° 61, para. 37 and 38.

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190. The instant case having been submitted to the consideration of the Court, the preparation of the second report does not apply, since the Commission chose the jurisdictional path in order for the Court to solve the differences of appreciation that still remained between the Commission and the State.

191. The Court has pointed out that

[…] the term "recommendations" used by the American Convention should be interpreted to conform to its ordinary meaning, in accordance with Article 31(1) of the Vienna Convention on the Law of Treaties. For that reason, a recommendation does not have the character of an obligatory judicial decision for which the failure to comply would generate State responsibility. [FN71]

[FN71] cfr. Loayza-Tamayo Case. Judgment of September 17, 1997. Series C N° 33, para. 79; and Genie-Lacayo Case, supra note 58, para. 93.

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192. However, as this Tribunal has likewise established,

[…] in accordance with the principle of good faith, embodied in the aforesaid Article 31(1) of the Vienna Convention, if a State signs and ratifies an international treaty, especially one concerning human rights, such as the American Convention, it has the obligation to make every effort to apply with the recommendations of a protection organ such as the Inter-American Commission, which is, indeed, one of the principal organs of the Organization of American States, whose function is "to promote the observance and defense of human rights" in the hemisphere (OAS Charter, Articles 52 and 111).

Likewise, Article 33 of the American Convention states that the Inter-American Commission is, as the Court, competent "with respect to matters relating to the fulfillment of the commitments made by the State Parties" which means that by ratifying said Convention, States Parties engage themselves to apply the recommendations made by the Commission in its reports. [FN72]

[FN72] Loayza-Tamayo Case, supra note 71, para. 80 and 81.

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193. In any event, once a matter is channeled through the jurisdictional path, the determination of whether or not the State violated substantive precepts of the Convention corresponds to the Court and, if affirmative, the Court shall then establish the consequences of such violations. In the opposite sense, it is not within the Tribunal's powers to determine liabilities arising from the procedural conduct of the State during the proceeding handled before the Commission which constitutes, precisely, the necessary step prior to the submission of the case to this Court.

XV. APPLICATION OF ARTICLE 63(1)

Arguments of the Commission

194. In its application brief, the Commission, based on Article 10 of the Convention, requested that the Court find that the State "is obliged to reinstate individuals in the exercise of their rights, to pay fair compensatory indemnification to the victims, and to repair the consequences that its violations have generated." In like manner, the Commission requested "that the Court establish the payment of the costs of this proceeding and that it recognise the right of the victims and their representatives before the Commission and before the Court to be reimbursed for expenses incurred before the Panamanian authorities and before the inter-American system bodies."

195. In response to a request by the Court (supra para. 54), on January 8, 2001, the Commission submitted a brief to which it attached the documentary evidence that, in its judgment, supported the request for the payment of costs and expenses that appeared in its application, as well as the corresponding arguments (supra para. 56, 64 and 84).

196. In said brief, the Commission informed that the expenses incurred to that date were:

a) between September, 1991, and November, 1992: US$ 13,936.69 (thirteen thousand nine hundred thirty-six U.S. dollars and sixty-nine cents) for transportation of the workers of Bayano,

Coclé, Colón, Chiriquí and Panama Metro to Panama City to submit reinstatement applications to the Conciliation and Decision Boards, to the Labour Courts, and to the Third Section of the Supreme Court, as well as to file the unconstitutionality action with the Supreme Court of Panama. Said amount would include also expenditures incurred for photocopies and the submission of the claims to the above-mentioned national departments;

b) between July, 1994, and March, 1995: US$ 1,994.00 (one thousand nine hundred ninety-four U.S. dollars) for transport and food expenditures incurred in handling the case before the Inter-American Commission, as well as information meetings, stationery, photocopies, and expenses of co-ordination trips to San Jose, Costa Rica;

c) between December, 1996, and February, 1998: US$ 1,579,66 (one thousand five hundred seventy-nine U.S. dollars with sixty-six cents) for international telephone calls to the offices of the Justice and International Law Centre (CEJIL), to the Inter-American Commission on Human Rights, to the Secretariat of the Court, to the "ORIT" and to the "SITET." Also for the transmission of fax messages and other items, international communications, and communication with international labour unions; and

d) between September, 1996, and July, 2000: US$ 21,541.50 (twenty one thousand five hundred forty-one U.S. dollars with fifty cents) for trips to Washington, D.C., of Ms. Minerva Gómez, and Messrs. Manrique Mejía, and Rafael Lascano, to attend a hearing before the Commission; for a trip of Messrs. Rolando Gómez and Luis Batista to Washington, D.C., and for the trip of Messrs. Rolando Gómez, Fernando Gaona, and José Arosemena, Ms. María Sánchez, Ms. Lidia Marín, and Messrs. Alfonso Chambers, Salvador Vela, Francisco Chacón, and Euribiades Marín to San Jose, Costa Rica, on the occasion of the public hearings on preliminary objections and the merits, before the Court. Also, for expenses generated in the course of the operations required for the filing of the action with the Court.

The Commission requested the Court that it orders the State to reimburse the total amount of US$ 39,051.85 (thirty nine thousand fifty-one U.S. dollars and eighty-five cents) to the victims and their representatives, for expenses incurred,.

197. Concerning costs, the Commission pointed out that, for legal services provided by Ms. Minerva Gómez for the preparation of briefs, the compilation of documents, participation in hearings and "lobbying" in international departments, she should be given the amount of US$150,000.00 (one hundred fifty thousand U.S.dollars).

Arguments of the State

198. For its part, the State pointed out, in its replies to the application and final arguments, that although "it did not have, nor does it have the obligation to provide indemnification, as an act of good faith and willingness it has reinstated […] and consequently indemnified, an important number of workers among those dismissed" (This translator's version of the quotation.)It likewise drew attention to the fact that of the 270 dismissed workers, 143 were appointed again, some to receive the same salaries and in the same positions. Lastly, Panama requested that the Commission be ordered to pay the costs of the proceeding and for all expenses incurred in the exercise of its defence.

199. On January 24, 2001, the State submitted its observations to the Commission's brief concerning expenses and costs (supra para. 56). In this respect it pointed out that

a) it opposes the Commission's request;
b) the determination of costs and expenses was premature, since the payment thereof applies in the event of a sentence;
c) in the event of a sentence it requests the Court to grant a term of six months for the parties to arrive at an agreement on reparations and costs;
d) the Commission did not provide evidence to prove that one or all of the 270 victims would have personally incurred expenses or costs on account of the instant proceeding;
e) from the evidence provided it can be concluded that the Workers Union of the IRHE (SITIRHE) covered through donations all the expenditures incurred by the petitioners. The Panamanian legislation provides to labour unions a number of privileges in order for them to be able to perform their duties, such as exempting their income from income tax, and the assurance that, pursuant to the Labour Code, the funds and assets of the labour unions be safe from garnishment; and
f) the expectation that the amount of US$ 150,000 (one hundred fifty thousand U.S. dollars) be recognised as legal fees due to Ms. Minerva Gómez "for allegedly having performed work that the Commission was supposed to perform," is "inopportune." Furthermore, during the proceeding Ms. Gómez was never introduced as a law professinal who provided services to the parties to the case, but as part of the team of the Centre for Justice and International Law (CEJIL).

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Considerations of the Court

200. Article 63(1) of the American Convention establishes that

[i]f 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.

201. This Tribunal has reiterated in its constant jurisprudence as a principle of international law that any violation of an international obligation that has caused damage carries with it the obligation to repair it adequately. [FN73]

[FN73] cfr. Case of the Constitutional Court, supra note 7, para. 118. Suárez-Rosero Case, Reparations (Art. 63.1, American Convention on Human Rights). Judgment of January 20, 1999. Series C N° 44, para. 40. In the same sense, cfr. Factory at Chorzów, Jurisdiction, Judgment N° 8, 1927, P.C..I.J., Series A. N° 9, page 21; Factory at Chorzów, Merits, Judgment N° 13, 1928, P.C.I.J., Series A. N° 17, page 29; Reparations for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, page 184.

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202. The reparation of the damage caused by the failure to comply with an international obligation demands full restitution (restitutio in integrum), which consists of the re-establishment of the preceding status and of the reparation of the consequences caused by such failure to comply, as well as the payment of indemnification as compensation for the damage caused. [FN74]

[FN74] cfr. Case of the Constitutional Court, supra note 7, para. 119.

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203. As a consequence of the indicated violations of the rights enshrined in the Convention, the Court must provide that the enjoyment of such rights or freedoms as may have been violated be guaranteed to those affected. [FN75] Although some workers would have been reinstated, no proof has been provided to this Court as to exactly how many were so reinstated, or whether they were reinstated in the same positions they had before the dismissal, or in positions of the same level and remuneration. The opinion of this Tribunal is that the State is obliged to reinstate the surviving victims in their positions unless this is not possible, in which event it must provide to them employment alternatives in respect of the conditions, salaries and other remuneration that they had at the time they were dismissed. If, likewise, the latter is not possible, the State must proceed to pay such indemnification as shall be appropriate to the circumstance of termination of employment pursuant to the internal labour law. In the same manner, the State must provide to the successors or assigns of victims who may have passed away such pension o retirement retributions as may be appropriate. Such obligation on the part of the State shall be maintained until it is fully complied with.

[FN75] cfr. Case of the Constitutional Court, supra note 7, para. 120.

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204. The Court feels that the reparation for violations of human rights that occurred in the instant case must also include fair indemnification, and the reimbursement of costs and expenses incurred by the victims or their beneficiaries because of the requirements for the processing of the case judicially before both, the internal and the international jurisdiction.

205. This Court has stated, concerning material damages on the assumption of surviving victims, that the calculation of indemnification must take into accout, among other factors, the time that the latter remained idle. The Court feels that such criterion is applicable in the instant case, [FN76] to which effect it provides that the State must pay such amounts as shall be appropriate to cover unpaid salaries pending and any other amounts in respect of labour rights according to its legislation, to which dismissed workers are entitled, or to which, in the event of death of the latter, their beneficiaries are entitled. The State must proceed to establish, according to the pertinent national procedures, the corresponding indemnification in order that the victims or their beneficiaries, as the case may be, receive such indemnification within a maximum term of 12 months.

[FN76] cfr. Case of the Constitutional Court, supra note 7, para. 121.

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206. Pursuant to a constant international jurisprudence, the Court feels that the handing down of a judgment whereby the claims of the victims shall be sustained is, in itself, a form of satisfaction. [FN77] However, this Court feels that, because of the suffering inflicted upon the victims and their beneficiaries, the victims having been dismissed in the conditions under which the dismissal was effected, the moral damages caused must, additionally, be repaired in a substitutive manner, by means of indemnification of a pecuniary nature. Under the circumstances of the case it is necessary to establish such type of indemnification, assessing it according to equitableness and on the basis of a prudent assessment of the moral damage, which cannot be assessed with precision. [FN78]

[FN77] cfr. Case of the Constitutional Court, supra note 7, para. 122. Suárez-Rosero Case. Reparations, supra note 73, para. 72; Castillo-Páez Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of November 27, 1998. Series C N° 43, para. 84; Neira-Alegría et al. Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of September 19, 1996.Series C N° 29, para. 56; El Amparo Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of September 14, 1996. Series C N° 28, para. 62; Godínez-Cruz Case. Compensatory damages (Art. 63.1 of the American Convention on Human Rights). Judgment of July 21, 1989. Series C. N° 8; para. 34; and Velásquez-Rodríguez Case. Compensatory damages (Art. 63.1 of the American Convention on Human Rights). Judgment of July 21, 1989. Series C N° 7, para. 36.

[FN78] cfr. Blake Case. Reparations (Art. 63.1 of the American Convention on Human Rights). Judgment of January 22, 1999. Series C N° 48, para. 55; Castillo-Páez Case, supra note 77, para. 84; and El Amparo Case. Reparations, supra note 77, para. 35. Also, cfr., inter alia, Cour eur. D.H., arrêt Wiesinger of October 30, 1991, Series A N° 213, p. 29, para. 85; Cour eur. D.H., arrêt Kemmache c. France (Article 50) of November 2, 1993, Series A N° 270-B, p. 16, para. 11; Cour eur. D.H., arrêt Mats Jacobsson of June 28, 1990, Series A N° 180-A, p. 16, para. 44; and Cour eur. D.H., arrêt Ferraro of February 19, 1991, Series A N° 197-A, p. 10, para. 21.

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207. In respect of the foregoing, and taking into account the peculiar circumstances of the case, and what has been decided in other similar cases, [FN79] the Court deems it equitable to grant, as indemnity for moral damages, the amount of US$3.000 (three thousand U.S. dollars) to each one of the victims of the instant case.

[FN79] cfr. inter alia, Loayza-Tamayo Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of November 27, 1998. Series C N° 42, para. 139; Caballero-Delgado and Santana Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of January 29, 1997. Series C N° 31, para. 50; and Neira-Alegría et al. Case. Reparations, supra note 77, para. 58.

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208. Concerning reimbursement, it is up to this Court to make a prudent estimate of the costs and expenses incurred, which include expenses for steps taken by the victims before the authorities of the internal jurisdiction, as well as those generated in the course of the proceeding before the inter-American system. This appraisal may be made on the basis of the principle of equitableness. [FN80]

[FN80] cfr. Case of the Constitutional Court, supra note 7, para. 125. Suárez-Rosero Case. Reparations, supra note 73, para. 92; Castillo-Páez Case. Reparations , supra note 77, para 112; and Garrido and Baigorria Case. Reparations (Art. 63.1, American Convention on Human Rights). Judgment of August 27, 1998. Series C N° 39, para. 82.

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209. To this effect, the Court deems it equitable to grant the sum of US$100,000 (one hundred thousand US dollars) as reimbursement for expenses incurred as a result of the steps taken by the victims and their representatives, and to grant the sum of US$20,000 (twenty thousand US dollars) as reimbursement for legal costs, generated, in both cases, by the internal proceedings and by the international proceeding before the inter-American protection system, such sums to be paid through the Commission.

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210. The Court shall not issue an opinion on the Commission's request that it declare Article 43 of the Constitution of Panama incompatible with the Convention, since it has already solved the matter of non-retroactivity of the laws in the context of the characteristics of the instant case.

211. This Court has already declared that Law 25 violated the Convention. However, since the former was in force up to December 31, 1991, it is no longer a part of Panamanian law, in respect of which it is not pertinent to adopt a decision about the derogation thereof, as the Commission requested in its application.

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212. To comply with this judgment, the State is to pay, within 12 months from the date of notification of the Judgment, the indemnification established in favour of the 270 workers in the instant case and their beneficiaries or duly accredited legal representatives, except for the amount relative to moral damages (supra para. 207), whose reparation shall consist of payments that must be made within the following 90 days. In paying the indemnity sustained in this judgment, the State shall pay the amounts that correspond to the current value of salaries due for the respective period (unpaid salaries). Finally, if for any reason it were not possible for the beneficiaries of the indemnity to claim it within the indicated 12-month term, the State shall accredit the respective amounts to their order in an account or time deposit with a solvent

financial institution under the most favourable conditions. If at the end of 10 years the indemnity is not claimed, the sum shall be returned together with the interest earned, to the Panamanian State.

213. According to its constant practice, the Court reserves the power to supervise the overall compliance with this Judgment. The proceeding shall be considered at an end once the State has complied appropriately with the provisions of this Judgment.

XVI. OPERATIVE PARAGRAPHS

214. Now, therefore,

THE COURT

Unanimously,

1. Declares that the State violated the principles of legality and non-retroactivity enshrined in Article 9 of the American Convention on Human Rights, to the detriment of the 270 workers mentioned in paragraph 4 of this Judgment.
2. Declares that the State violated the rights to judicial guarantees and judicial protection provided for in Articles 8(1), 8(2) and 25 of the American Convention on Human Rights, to the detriment of the 270 workers mentioned in paragraph 4 of this Judgment.
3. Declares that the State did not violate the right of assembly provided for in Article 15 of the American Convention on Human Rights, to the detriment of the 270 workers mentioned in paragraph 4 of this Judgment.
4. Declares that the State violated the right to freedom of association enshrined in Article 16 of the American Convention on Human Rights, to the detriment of the 270 workers mentioned in paragraph 4 of this Judgment.
5. Declares that the State failed to comply with the general obligations provided for in Articles 1(1) and 2 of the American Convention on Human Rights, in connection with the violations of the substantive rights pointed out in the preceding operative items of this Judgment.
6. Decides that the State must pay to the 270 workers mentioned in paragraph 4 of this Judgment, the amounts that correspond to unpaid salaries and other labour rights applicable according to its legislation, which payment must, in the case of deceased workers, be made to their beneficiaries. In accordance with the pertinent national procedures, the State shall fix the respective indemnification, in order for the victims and, if applicable, their beneficiaries, to receive it within a maximum term of 12 months from the date of notification of this Judgment.
7. Decides that the State must reinstate the 270 workers mentioned in paragraph 4 of this Judgment in their positions, and should this not be possible, that it must provide employment alternatives where the conditions, salaries and remunerations that they had at the time that they were dismissed are respected. In the event that, likewise, the latter is not possible, the State shall proceed to pay the indemnity that corresponds to the termination of employment, in conformity with the internal labour law. In like manner, the State shall provide pension or retirement retribution as applicable to the beneficiaries of victims who may have passed away. The State shall comply with the obligations established in this operative item within a maximum term of 12 months from the date of notification of this Judgment.

8. Decides, for the sake of equitableness, that the State must pay each of the 270 workers mentioned in paragraph 4 of this Judgment the amount of US$3,000 (three thousand U.S. dollars) for moral damages. The State shall comply with the obligations established in this operative item within a maximum term of 90 days from the date of notification of this Judgment.
9. Decides, for the sake of equitableness, that the State must pay the group of 270 workers mentioned in paragraph 4 of this Judgment the amount of US$100,000 (one hundred thousand U.S. dollars) as reimbursement for expenses generated by the steps taken by the victims and their representatives, and the amount of US$20,000 (twenty thousand U.S. dollars) as reimbursement for costs, from internal proceedings and the international proceeding before the Inter-American protection system. These amounts shall be paid through the Inter-American Commission on Human Rights.
10. Decides that it shall supervise compliance with this Judgment and that it shall close the case only after such compliance.

Done in Spanish and in English, the Spanish text being authentic, in San Jose, Costa Rica, on February 2, 2001.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez
Hernán Salgado-Pesantes
Oliver Jackman
Alirio Abreu-Burelli
Sergio García-Ramírez
Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary