

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF NOVEMBER 27, 2003**

BLAKE CASE

COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The judgment on merits in *Blake v. Guatemala* delivered by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") on January 24, 1998, in which it ordered, in the third and fourth operative paragraphs, that:

3. [...] the State of Guatemala is obliged to use all the means at its disposal to investigate the acts denounced and punish those responsible for the disappearance and death of Nicholas Chapman Blake.

[...]

4. [...] the State of Guatemala is obliged to pay a fair compensation to the relatives of Nicholas Chapman Blake and reimburse them for the expenses incurred in their representations to the Guatemalan authorities in connection with this process.

2. The judgment on reparations delivered by the Court in the instant case on January 22, 1999, in which it decided as follows:

1. To order the State of Guatemala to investigate the facts of the present case, identify and punish those responsible, and adopt the measures in its domestic law that are necessary to assure compliance with this obligation (in conformance with operative paragraph three of the judgment on the merits), of which it will inform the Court, semiannually, until the end of the corresponding actions.

2. To order the State of Guatemala to pay:

a. US.\$151,000.00 (one hundred fifty-one thousand dollars of the United States of America) or its equivalent in Guatemalan national currency, to Richard Blake, Mary Blake, Richard Blake Jr., and Samuel Blake, as the injured party, as reparations, to be distributed in the manner indicated in paragraphs 58, 50, and 49 of this judgment:

i. US\$30,000.00 (thirty thousand dollars of the United States of America) as moral damages to each of the following persons: Richard Blake, Mary Blake, Richard Blake Jr., and Samuel Blake;

ii. US\$15,000.00 (fifteen thousand dollars of the United States of America) as medical expenses to Samuel Blake; and

iii. US\$16,000.00 (sixteen thousand dollars of the United States of America) as expenses of an extrajudicial nature.

b. Also, US\$10,000.00 (ten thousand dollars of the United States of America) or its equivalent in Guatemalan national currency, to Richard Blake, Mary Blake, Richard Blake Jr., and Samuel Blake, as the injured party, for reimbursement of the expenses incurred in the processing of the case before

* Judge Hernán Salgado Pesantes advised the Court that, owing to circumstances beyond his control, he would be unable to take part in the deliberation and signature of this Order.

the Inter-American system for the protection of human rights, in accordance with paragraph 70 of this judgment.

3. To order that the State of Guatemala make the payments indicated in operative paragraph 2 within six months of the notification of this judgment.
4. To order that the payments ordered in this judgment shall be exempt from any existing or future tax or duty.
5. To monitor compliance with this judgment.

3. The brief of the State of Guatemala (hereinafter "the State" or "Guatemala") of July 20, 1999, in which it submitted a request for an extension in order to comply with the second operative paragraph of the judgment on reparations, because "Guatemala ha[d] serious difficulties in finding the budgetary means to make the payment ordered by the [...] Court [...], because when the 1999 Income and Expenditure Budget of the State was prepared and adopted, the judgment on reparations had not been delivered or notified [...]." In this respect, Guatemala requested the authorization of the Court to enable it "to comply with the payment [for reparations and reimbursement of expenses] in payments to be carried forward over future years, starting in 2000."

4. The first report of the State of July 26, 1999, in which it indicated that the proceeding against Vicente Cifuentes López, alleged perpetrator of the assassination of Nicholas Chapman Blake, was at the stage of "the joint hearing of the parties so that they [could] contribute and describe the evidence in the case" and that, subsequently, the Sentencing Court would proceed to establish the date for the debate that it had annulled due to "procedural errors."

5. The communications of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and of the representatives of the next of kin of Nicholas Chapman Blake, of August 27 and September 3, 1999, respectively, in which they presented their comments on the State's brief of July 20, 1999. In these communications they rejected Guatemala's request to comply with payments carried forward as of 2000 and proposed, as an alternative, that the State should make the total payment of the compensation, together with the interest accrued, in January 2000.

6. The note of the Secretariat of the Court (hereinafter "the Secretariat") of February 7, 2000, in which, on the instructions of the President of the Court (hereinafter "the President"), it requested the State to present its biannual report on compliance with the first operative paragraph of the judgment in this case, and to submit a report on compliance with the other operative paragraphs of the judgment.

7. The brief of the representative of the victim's next of kin of March 3, 2000, advising that "the family ha[d] not received any payment in reparation" and requesting information in that regard.

8. The communication of the Secretariat of March 6, 2000, informing the representatives of the victim's next of kin on the status of compliance in this case. The note of the same day, in which the Secretariat reiterated to the State the request that it present the above-mentioned reports (*supra* sixth having seen paragraph), and granted it a new time limit until March 24, 2000.

9. The brief of the State of March 30, 2000, presenting its biannual report and

advising the Court that "after overcoming technical obstacles [...] [t]he payments [of the compensation ordered] [would] be carried out by the *Banco de Guatemala* making deposits in the *Banco Internacional de Costa Rica*, so that [they could be] collected in this Bank's agency in Miami [...]." These deposits amounted to US\$172,892.96 (one hundred and seventy-two thousand, eight hundred and ninety-two United States dollars and ninety-six cents) and included the interest the State had to pay "because it had not complied with the judgment on reparations within the original time limit." The State also advised that, on January 31, 2000, the Court for Criminal Judgments, Drug-trafficking, and Crimes against the Environment of the Department of Huehuetenango had sentenced "Vicente Cifuentes López, as the perpetrator of the crime of continuous assassination committed against Nicholas Chapman Blake and Griffith Williams Davis" to 28 years of imprisonment.

10. The note of the Secretariat of June 8, 2000, in which it requested the Commission and the representatives of the victim's next of kin to submit detailed information on compliance with "each operative paragraph of the judgment," so that the Court could make a final decision about compliance with this judgment.

11. The communication of the Commission of July 10, 2000, advising that the next of kin of the victim had received payment of the compensation ordered in the second, third and fourth operative paragraphs of the judgment on reparations, for the amounts and as mentioned in Guatemala's biannual report. With regard to the first operative paragraph of this judgment, it indicated that the State "ha[d] only complied partially," because only Vicente Cifuentes López had been convicted as a perpetrator of the "crime of continuous assassination" of Nicholas Chapman Blake and Griffith Williams Davis, and not other individuals who allegedly helped commit the crime and who had not been investigated by the State.

12. The note of the Secretariat of July 13, 2000, to the representatives of the victim's next of kin reiterating that they should submit a report on the status of compliance with the judgment on reparations in this case (*supra* tenth having seen paragraph).

13. The notes of the Secretariat of August 16 and September 28, 2000, in which, on the instructions of the Court, it reiterated to the State the request that it present detailed information on compliance with each operative paragraph of the judgment in order to "adopt a decision on compliance with judgment in the instant case."

14. The communication of Richard Blake of March 9, 2001, stating that Guatemala had not complied fully with the judgment on reparations as regards investigation of the facts and punishment of all those responsible, since it had not found and captured the other individuals who were allegedly involved in the disappearance of his brother.

15. The notes of the Secretariat of March 26 and June 1, 2001, in which, on the instructions of the Court, it again requested the State to submit a report on compliance with "complementary information on the other persons who were [allegedly] responsible."

16. The brief of the State of July 3, 2001, in which it reported that "it had complied effectively with the compensatory payment to the next of kin of Nicholas Chapman Blake and also with the criminal prosecution of [...] Vicente Cifuentes López, who had been sentenced to 21 years' imprisonment, plus one-third, which

corresponded to 28 years' imprisonment, by the domestic courts of justice for the crime of continuous assassination" of Nicholas Chapman Blake. The State considered that it had complied fully with the judgment and "not partially as the next of kin of Mr. Chapman Blake and the Inter-American Commission had alleged". It added that, during the criminal proceedings under domestic law, the Office of the Attorney General [*Ministerio Público*] had requested the courts of justice "to leave the criminal prosecution [against Candelario López Herrera, Hipólito Ramos García and Mario Cano Saucedo] open." The domestic courts had done this, even though it had not been possible to find these individuals. Guatemala considered that this situation "[did] not imply [...] that the State had failed to fulfil the obligations imposed by the judgment on reparations or those arising from its own domestic legal system concerning its obligation to prosecute and punish the crime [...]." Therefore, it requested that the Court consider that the judgment had been complied with and decide to file the case.

17. The note of the Secretariat of October 4, 2002, in which, on the instructions of the President, it requested the State to present a detailed report on compliance with the judgment on reparations, by November 1, 2002, at the latest.

18. The brief of Guatemala of November 27, 2002, in which it indicated with regard to compliance with judgment that:

it reiterated its previous reports, to the effect that Vicente Cifuentes López, who had been convicted for the death of Nicholas Chapman Blake, was in prison[...] the National Civil Police had taken steps to capture [the other individuals involved in the facts], although this had not been possible to date because the whereabouts of those accused was not known [and ... the financial compensation had already been paid as ordered] by the Court.

19. The Order of the Inter-American Court of November 27, 2002, in which it decided:

1. That the State had the obligation to take all necessary measures to comply effectively and promptly with the judgment on reparations of January 22, 1999, delivered by the Inter-American Court of Human Rights in the Blake case, as established in Article 68(1) of the American Convention on Human Rights.

2. That the State must present to the Court, by March 30, 2003, at the latest, a detailed report on the measures taken to comply with the decisions of the Court in the ninth and tenth considering paragraphs of this Order on compliance.

3. That the representatives of the victim and his next of kin, and also the Inter-American Commission on Human Rights must present their comments on the State's report within two months of receiving it.

[...]

20. The notes of the Secretariat of August 12 and October 9, 2003, in which, on the instructions of the President, it reiterated to State that it should submit a report on the status of compliance with the judgment on reparations in this case, in accordance with the Order of the Court of November 27, 2002.

CONSIDERING:

1. That one of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. That the State of Guatemala has been a State Party to the American Convention since May 25, 1978, and accepted the jurisdiction of the Court on March 9, 1987.

3. That, in view of the final and unappealable character of the judgments of the Court, as established in Article 67 of the American Convention, they should be complied with fully and promptly.

4. That Article 68(1) of the American Convention stipulates that “[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.” The treaty obligations of the States Parties are binding for all the powers and functions of the States.

5. That the obligation to comply with the provisions of the Court’s judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, a State must comply with its international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty¹.

6. That from examining the information provided by the State, the representatives of the victim’s next of kin, and the Inter-American Commission, the Court has verified that the State has complied with payment of the compensation it had ordered to the following next of kin of the victim: Richard Blake, Mary Blake, Richard Blake Jr. and Samuel Blake (*second operative paragraph of the judgment of January 22, 1999*) (*supra* second having seen paragraph).

7. That from the information received, the Court has verified that the State has punished Vicente Cifuentes López, one of those responsible for the human rights violations committed against Nicholas Chapman Blake (*third operative paragraph of the judgment of January 22, 1999*). Nevertheless, after examining all the information provided by the parties in their briefs on compliance with the judgment on reparations, the Court considers it essential that the State inform the Court about its obligation to investigate, prosecute and punish all those responsible for the human rights violations decided by the Court (*third operative paragraph of the judgment of January 24, 1998, and first operative paragraph of the judgment of January 22, 1999*) (*supra* first and second having seen paragraphs), particularly in relation to the actions taken by the State to investigate prosecute and punish Candelario López Herrera, Hipólito Ramos García and Mario Cano Saucedo, who are allegedly responsible in this case.

8. That, with regard to the aspects that the State has already complied with (*supra* sixth considering paragraph), this Court deems that it is not pertinent to request any further information.

¹ Cf. *Benavides Cevallos case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of September 9, 2003, third considering paragraph; *Baena Ricardo et al. case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of June 6, 2003, fourth considering paragraph; *“The Last Temptation of Christ” case (Olmedo Bustos et al.)*. *Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph; *El Amparo case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph; and *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Arts. 1 and 2 of the American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35.

9. That the State must comply forthwith with the aspect that remains to be fulfilled (*supra* seventh considering paragraph). Accordingly, the State must submit a report on the above-mentioned aspect that is pending compliance and, subsequently, the representatives of the victim's next of kin, and the Inter-American Commission must present their comments on the State's report.

10. That the Court will consider the general status of compliance with its judgments on merits (January 24, 1998) and reparations (January 22, 1999) when it has received the said report of the State and the corresponding comments on the above-mentioned measures of reparations (*supra* seventh and ninth considering paragraphs).

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions and in accordance with Articles 67 and 68(1) of the American Convention sobre Derechos Humanos, Article 25(1) of its Statute and Article 29(2) of its Rules of Procedure,

DECLARES:

1. That the State has complied with payment of the compensation ordered by the Inter-American Court of Human Rights to Richard Blake, Mary Blake, Richard Blake Jr. and Samuel Blake, all next of kin of the victim, as indicated in the sixth considering paragraph of this Order.

2. That it will keep open the procedure to monitor compliance with the aspect pending fulfillment in the instant case, in relation to the measures necessary to comply with the obligation to investigate, prosecute and punish all those responsible for the human rights violations, as indicated in the seventh considering paragraph of this Order.

AND DECIDES:

3. To urge the State to adopt all necessary measures to comply promptly and effectively with the reparations ordered in the judgments of January 24, 1998, and January 22, 1999, which are pending compliance, pursuant to the provisions of Article 68(1) of the American Convention on Human Rights.

4. To call upon the State to present a detailed report, by April 1, 2004, at the latest indicating all the measures adopted to comply with the aspect ordered by this Court that is pending, as indicated in the seventh considering paragraph of this Order.

5. To call upon the representatives of the victim's next of kin and the Inter-American Commission on Human Rights to submit their comments on the report of the State mentioned in the preceding operative paragraph within two months of receiving it.

6. To continue monitoring compliance with the judgment on merits and reparations of January 24, 1998, and January 22, 1999, respectively.

7. To notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the victim's next of kin.

Antônio A. Cançado Trindade
President

Sergio García-Ramírez

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary