

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

SUÁREZ ROSERO CASE

COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The judgment on merits delivered by the Inter-American Court of Human Rights (hereinafter "the Court") in the Suárez Rosero case, on November 12, 1997, by which:

unanimously,

1. [It found] that the State of Ecuador violated, to the detriment of Rafael Iván Suárez-Rosero, Article 7 of the American Convention on Human Rights, in relation to Article 1(1) of the same, in the terms indicated in paragraphs 38 to 66 of [the] judgment.

2. [It found] that the State of Ecuador violated, to the detriment of Rafael Iván Suárez-Rosero, Article 8 of the American Convention on Human Rights, in relation to Article 1(1) of the same, in the terms indicated in paragraphs 57 to 83 of [the] judgment.

3. [It found] that the State of Ecuador violated, to the detriment of Rafael Iván Suárez-Rosero, Article 5 of the American Convention on Human Rights, in relation to Article 1(1) of the same, in the terms indicated in paragraphs 84 to 92 of [the] judgment.

4. [It found] that the State of Ecuador violated, to the detriment of Rafael Iván Suárez-Rosero, Article 25 of the American Convention on Human Rights, in relation to Article 1(1) of the same, in the terms indicated in paragraphs 61 to 66 of [the] judgment.

5. [It found] that the final paragraph of the unnumbered article after Article 114 of the Criminal Code of Ecuador violates Article 2 of the American Convention on Human Rights, in relation to Articles 7(5) and 1(1) of the same.

6. [It found] that Ecuador must order an investigation to determine the persons responsible for the human rights violations referred to in this judgment and, where possible, punish them.

7. [It found] that Ecuador [was] obliged to pay a fair indemnity to the victim and his relatives and to compensate them for any expenses incurred in their representations relating to this proceeding.

8. [It ordered] the initiation of the Reparations Stage, for which purpose it authorize[d] the President to adopt in due course such measures as [might] be necessary.

2. The judgment on reparations delivered by the Court on January 20, 1999, in which:

unanimously

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

1. [It ordered] the State of Ecuador not to collect the fine levied on Mr. Rafael Iván Suárez Rosero and to remove his name from both the Register of Criminal Records, as well as from the Register maintained by the National Council on Narcotic Drugs and Psychotropic Substances, as to the facts concerned in the present proceeding, in accordance with the terms of paragraph 76 of [the] judgment.

unanimously

2. [It ordered] the State of Ecuador to pay, in the manner and under the conditions set forth in paragraphs 101 to 112 of [the] judgment, a total amount of US\$ 86,621.77 (eighty-six thousand, six hundred twenty-one dollars of the United States of America and seventy-seven cents) or its equivalent in Ecuadorian currency, distributed in the following manner:

- a. US\$53,104.77 (fifty-three thousand, one hundred four dollars of the United States of America and seventy-seven cents) or the equivalent in Ecuadorian currency to Mr. Rafael Iván Suárez Rosero;
- b. US\$23,517.00 (twenty-three thousand, five hundred seventeen dollars of the United States of America) or the equivalent in Ecuadorian currency to Mrs. Margarita Ramón Burbano; and
- c. US\$10,000.00 (ten thousand dollars of the United States of America) or the equivalent in Ecuadorian currency to the minor Micaela Suárez Ramón.

unanimously

3. [It ordered] the State of Ecuador to pay for costs and expenses, in the manner and conditions prescribed in paragraphs 101 to 112 of this judgment, the sum of US\$ 6,520.00 (six thousand, five hundred twenty dollars of the United States of America), or the equivalent in Ecuadorian currency, to Alejandro Ponce Villacís, and the sum of US\$ 6,010.45 (six thousand, ten dollars of the United States of America and forty-five cents), or the equivalent in Ecuadorian currency to Richard Wilson.

unanimously

4. [It ordered] the State of Ecuador to apply the following rules to the payments set forth in the [...] judgment:

- a. the payment of the lost wages ordered in the second operative paragraph (part a), will be exempt from any deduction other than those made by the Court when it made the respective calculations, in accordance with paragraph 55(A)(a) of the [...] judgment; and
- b. the payments ordered shall be exempt from any existing or future tax or duty.

unanimously

5. [It decided] to supervise fulfillment of this Judgment.

3. The judgment on interpretation of the judgment on reparations delivered on May 29, 1999, by which it was unanimously decided:

1. That the request filed by the State of Ecuador for interpretation of the January 20, 1999 Judgment delivered in the Suárez Rosero Case [was] admissible.

2. That the sums that the Court ordered in the judgment in question for Mr. Rafael Iván Suárez Rosero and Mrs. Margarita Ramón de Suárez sh[ould] be paid promptly and in full. It [was] incumbent upon the State to exhaust all measures to ensure prompt and efficient fulfillment of this obligation, under the conditions and within the time limits established in that judgment and, in particular, to adopt suitable measures to ensure that the legal deductions that Ecuadorian financial institutions charge on all monetary transactions shall not abridge the beneficiaries' right to receive the full amounts ordered for them.

3. That the payment that the Inter-American Court of Human Rights ordered for the minor Micaela Suárez Ramadán in the judgment in question, sh[ould] be deposited in full in the trust fund mentioned in paragraph 107 of the judgment and that said amount sh[ould] not be subject to any tax at the time the trust fund is set up or to any tax withholdings.
4. That the attorneys for Mr. Suárez Rosero [were] to receive full and prompt payment of the costs and expenses that the Inter-American Court of Human Rights ordered in the judgment in question and that at time of payment, said amount sh[ould] not be subject to any deductions or taxes.
4. The brief of July 23, 1999, and its attachment, in which the State appointed "Ramón Jiménez Carbo [...] to [...] intervene as principal agent" in the case.
5. The brief of July 26, 1999, in which Alejandro Ponce Villacís, representative of the victim and his next of kin, referred to compliance by the State of Ecuador (hereinafter "the State" or "Ecuador") with the provisions of the judgment on reparations, and also on the measures of reparation ordered in the judgment on merits. In this respect, he stated that the State had not conducted any type of investigation and had not punished any members of the Police who had taken part in the illegal detention of the victim, but, to the contrary, had proceeded to promote them within the police force. The representative added that the State had not complied with the fifth operative paragraph of the judgment on merits or with the payments established in the judgment on reparations, and it had not set up the trust fund ordered. Lastly, he indicated that he was not sure whether the name of Mr. Suárez Rosero had been eliminated from the Register of Criminal Records and, regarding the Register kept by the National Council on Narcotic Drugs and Psychotropic Substances, he said that he believed that "the Court's order ha[d] been complied with eventually, but he [was] not completely sure."
6. Note CDH-11,273/268 of July 29, 1999, in which the Secretariat of the Court (hereinafter "the Secretariat"), on the instruction of the President of the Court (hereinafter "the President"), requested the State to present a report on compliance with the provisions of the judgment on reparations, and also on the measures of reparation ordered in the judgment on merits (*supra* first and second having seen paragraphs).
7. Note CDH-11,273/272 of September 1, 1999, in which the Secretariat, on the instructions of the President, reiterated to the State the request that it should present a report on compliance with the provisions of the judgment on reparations, and also on the measures of reparation ordered in the judgment on merits (*supra* first, second and sixth having seen paragraphs).
8. The brief of November 12, 1999, and its attachments, in which the State presented the report that had been requested (*supra* sixth and seventh having seen paragraphs). In this respect, it indicated that the "Public Prosecutor [...] had order[ed] the respective Criminal Judge of Pichincha to [initiate] criminal proceedings in order to discover the authors, accomplices and accessories of the human rights violations against Mr. Suárez Rosero."
9. The brief of December 15, 1999, and its attachment, in which Alejandro Ponce Villacís transmitted a copy of the communication of December 2, 1999, that he had sent to Ramón Jiménez Carbo, Attorney General of the State of Ecuador concerning the payment of the professional fees ordered in the judgment on

reparations. In this respect, he indicated that the State had not complied with the judgments of the Court since July 1999.

10. The brief of January 14, 2000, in which the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") presented its comments on the State's report of November 12, 1999 (*supra* eighth having seen paragraph). In this, it indicated that the State had merely referred to the obligation to order an investigation, but the Criminal Court of Pichincha had not adopted any measures. The Commission also indicated that it had been unable to determine whether, in effect, the State had eliminated the name of Mr. Suárez Rosero from the Register of Criminal Records and from the Register kept by the National Council on Narcotic Drugs and Psychotropic Substances.

11. Note CDH-11,273/287 of April 7, 2000, in which the Secretariat, on the instructions of the President, requested the State to present a report before May 15, 2000, with a detailed account of the measures taken to comply with the provisions of the judgment on reparations that were pending compliance, and also the measures of reparations ordered in the judgment on merits that were also pending compliance.

12. The brief of May 10, 2000, and its attachments, in which the State presented the report requested by the Court (*supra* eleventh having seen paragraph). In this respect, it indicated that on January 6, 2000, it had made a partial payment to Mr. Suárez Rosero and that, in the next few days, it would deliver the remaining amount in his favor. Regarding the investigation, the State advised that the "Fifth Criminal Judge of Pichincha ha[d] issued a court order to investigate the illegal detention of Rafael Suárez Rosero."

13. The brief of July 11, 2000, and its attachments, with which Alejandro Ponce Villacís forwarded a copy of the communication of June 30, 2000, that he had sent to Ramón Jiménez Carbo, Attorney General (*Procurador General*) of the State of Ecuador. He also submitted a copy of official letter No. SPYC-AD-2000 from "Ing. Com. Jorge Morán Centeno," Under-Secretary General of the Ministry of Economy and Finance, to Claudio Mueckay Arcos, Ombudsman, indicating that Mr. Ponce Villacís had filed a complaint before the Office of the Ombudsman, because the State had only complied partially with the measures of reparation decided by the Court.

14. Note CDH-11,273/297 of August 21, 2000, in which the Secretariat, on the instructions of the whole Court, requested the State to forward an updated report on compliance before September 29, 2000, if there was any information subsequent to that sent in the brief of May 10, 2000 (*supra* twelfth having seen paragraph).

15. Note CDH-11,273/301 of November 10, 2000, in which the Secretariat, on the instructions of the President, reiterated to the State the request to present the report on compliance that the Court had asked for as soon as possible (*supra* fourteenth having seen paragraph).

16. Note CDH-11,273/285 of November 21, 2000, in which the Secretariat, on the instructions of the whole Court, informed the State that, owing to its failure "to present the information requested by the Court on repeated occasions," it should present a report on the provisions of the judgment on reparations that were pending compliance, and also on the measures of reparation ordered in the judgment on merits that were also pending compliance by January 29, 2001.

17. Note 11,273/302 of February 14, 2001, in which the Secretariat, on the instructions of the Court, reiterated to the State the request referred to in the preceding paragraph.

18. The report of the State of February 15, 2001, and its attachments, in which it referred to the components of the judgments on merits and reparations that were pending compliance. Regarding the payments ordered in the Court's judgment, it indicated that they had all been paid, but that the setting up of a trust fund in favor of the minor, Micaela Suárez Ramadán, was pending. The State also advised that the name of Mr. Suárez Rosero had been eliminated from the register of criminal records of the National Police, that it had also taken measures in the Register of the National Council on Narcotic Drugs and Psychotropic Substances, and that the Council had officially notified "the different institutions that monitor the financial system," "which implie[d] that the fine imposed was non-enforceable." On March 9, 2001, Ecuador forwarded the original report and several attachments.

19. The brief of April 6, 2001, and its attachment, in which Alejandro Ponce Villacís, representative of the victim and his next of kin, referred to compliance with the payment ordered in the judgment on reparations in favor of the minor, Micaela Suárez Ramadán, by setting up a trust fund (*supra* second and third having seen paragraphs). Mr. Ponce Villacís indicated that "there ha[d] been discussions with regard to setting up [this trust fund]," because the State had indicated that "the cost of administering the trust fund while it was active should be assumed by the beneficiary' and that 'the trust fund should be subject to the general taxes included in domestic legislation." The representative stated that he did not agree with this and, consequently, requested the Court to intervene.

20. The brief of April 20, 2001, and its attachment, in which the Inter-American Commission forwarded its comments on the State's report of February 15, 2001 (*supra* eighteenth having seen paragraph). In this respect, it said that those responsible for the violations of the human rights of Mr. Suárez Rosero had not been identified or prosecuted. With regard to the payments made by the State, the Commission indicated that there was a balance pending with regard to the amounts due to Margarita Ramadán. It also stated that the setting up of a trust fund in favor of the minor, Micaela Suárez Ramadán, was pending. With regard to the costs and expenses, it stated that part of the payment was still pending.

21. Note CDH-11,273/324 of May 30, 2001, in which the Secretariat requested the State to present a detailed report and evidence that would allow the Court to assess compliance with its judgments, because examination of the State's report of February 15 (*supra* eighteenth having seen paragraph) and the Commission's comments on that document (*supra* twentieth having seen paragraph), revealed contradictory information concerning compliance with several elements.

22. The brief of August 29, 2001, and its attachments, in which the State forwarded the requested information (*supra* twenty-first having seen paragraph). In this respect, it indicated that Mr. Suárez Rosero had not appeared to make a statement before the Judge of Criminal Affairs of Pichincha. It attached a copy of the cheques issued in favor of the victim, his next of kin and his lawyers. Regarding the pending trust fund in favor of the minor, Micaela Suárez Ramadán, the State indicated that the Court should determine who should cover the administrative costs.

23. The Order issued by the Court on December 4, 2001, regarding compliance with its judgments, in which it decided:

1. That, as stated in the judgment on reparations in the instant case, the State must set up a trust fund in favor of Micaela Suárez Ramadán, and therefore it – the State – and not the beneficiary of the reparation must cover the costs involved by this trust fund.

2. That, as has already been established by the Court in the judgments on reparations and interpretation of the judgment on reparations, no taxes should be levied on the trust fund in favor of the minor, Micaela Suárez Ramadán.

24. The brief of May 23, 2002 at its attachments, in which the Ecuador advised that “the Financial Department of the Office of the Attorney General [...] sent an official communication to the Banks: Pichincha, *Produbanco* and *Internacional*” requesting them to forward a proposal regarding setting up the trust fund in favor of the minor, Micaela Suárez. However, Ecuador indicated that “the private banks [did not show] any interest in working with” the State and that only the *Banco de Pichincha* had forwarded a proposal.

25. The brief of July 9, 2002, at its attachment, in which Alejandro Ponce Villacís presented comments on the State’s brief of May 23, 2002 (*supra* twenty-fourth having seen paragraph). In this respect, he stated that Ecuador “had requested information from financial institutions that [were] not authorized by law to set up trust funds” and that he had contacted the administrator of a fund called the “Pichincha Fund,” a company that recognized his capacity to administer the trust fund.

26. Note CDH-11,273/341 of August 27, 2002, in which the Secretariat requested the State to present a report on compliance with its judgments prior to September 27, 2002.

27. Note CDH-11,273/342 of January 21, 2003, in which the Secretariat, on the instruction of the President, requested the State to forward a report on compliance on the judgment on reparations delivered by the Court by June 16, 2003, at the latest.

28. The brief of January 23, 2003 at its attachment, in which the State requested the Court “to examine the possibility of ordering an alternative way of complying with the judgment on reparations with regard to the minor, Suárez Ramadán, that [did] not entail such a high cost for the Treasury.”

29. The brief of February 10, 2003, in which Alejandro Ponce Villacís presented his comments on the State’s brief of January 23, 2003 (*supra* twenty-eighth having seen paragraph). In this respect, “he express[ed] his concern with regard to the State’s attitude, owing both to the unjustified delay in setting up the trust fund and to the failure to investigate and punish those responsible.”

30. The brief of February 14, 2003, in which the Commission presented its comments on the State’s brief of January 23, 2003 (*supra* twenty-eighth having seen paragraph). In this respect, it requested the Court “to urge the State to conclude the pending procedures with regard to setting up the trust fund in the name of the minor, Micaela Suárez Ramadán” and to request the State to provide “detailed information on the measures adopted to ensure that those responsible for the violations established [were] identified, prosecuted and punished.”

31. Notes CDH-11,273/359, CDH-11,273/360, CDH-11,273/361, CDH-11,273/362 and CDH-11,273/363 of February 26, 2003, in which the Secretariat, on the instructions of the whole Court, informed the parties that:

the State must set up a trust fund in favor of Micaela Suárez Ramadán, which implie[d] that the State must cover any costs generated by this trust fund. Likewise, that, as the Court had decided in the judgments on reparations and interpretation of the judgment on reparations, the trust fund in favor of the minor, Micaela Suárez Ramadán, should not be subject to any tax or charge whatsoever.

32. Notes CDH-11,273/364, CDH-11,273/365, CDH-11,273/366, CDH-11,273/367 and CDH-11,273/368, of October 10, 2003, in which the Secretariat, on the instructions of the Court, advised the parties that:

a) According to the different briefs forwarded to the Court by the State of Ecuador, the Inter-American Commission on Human Rights, and the representatives of the victims and their next of kin, the fine imposed on Rafael Iván Suárez Rosero was not enforced, and his name was eliminated from the Register of the National Council of Narcotic Drugs and Psychotropic Substances (*first operative paragraph of the judgment on reparations of January 20, 1999*);

b) According to the information forwarded by the parties in this case, it appears that the payment ordered in favor of Rafael Iván Suárez Rosero and Margarita Ramadán Burbano (*subparagraph (a) and (b) of the second operative paragraph of the judgment on reparations of January 20, 1999*) has been made;

c) The payment ordered in favor of the minor, Micaela Suárez Ramadán, by setting up a trust fund, as indicated by this Court in its judgment on reparations of January 20, 1999, in its judgment on interpretation of the judgment on reparations of May 29, 1999, and in its Order of December 4, 2001, is still pending. The State should provide the Court with information on whether this trust fund has been set up;

d) According to the information forwarded by the parties in this case, it appears that payment of the costs and expenses ordered in favor of Alejandro Ponce Villacís and Richard Wilson (*third operative paragraph of the judgment on reparations of January 20, 1999*) has been made; and

e) The investigation and punishment of the persons responsible for the human rights violations declared by the Court is still pending (*sixth operative paragraph of the judgment on merits of November 12, 1997*).

Owing to the above, the Secretariat requested the State, the Commission, and the representative of the victim and his next of kin to present a report on the matters pending compliance by October 27, 2003, at the latest, as well as any comments they had on the matters that appeared to have been complied with fully.

33. The brief of October 24, 2003, in which the Inter-American Commission responded to the Court's request (*supra* thirty-first having seen paragraph). In this respect, it indicated that the only matter pending compliance in this case was "the setting up of the trust fund in favor of the minor, Micaela Suárez Ramadán" and "the

investigation and punishment of the persons responsible for the human rights violations declared by the Court." Consequently, the Commission requested the Court to urge the State "to complete the procedures needed to set up the trust fund in the name of the minor, Micaela Suárez Ramadán" and to request the State to provide "detailed information on the measures adopted in order to ensure that those responsible for the violations established [were] identified, prosecuted and punished."

34. The brief of October 28, 2003, in which the State requested an extension for presenting the requested report (*supra* thirty-second having seen paragraph). The Secretariat, on the instructions of the President, granted the requested extension until November 5, 2003.

35. Note CDH-11,273/374 of November 18, 2003, in which the Secretariat requested the State to forward the requested information (*supra* thirty-second and thirty-fourth having seen paragraph) as soon as possible, because the time limit had expired and the State's information had not been received.

36. Note CDH-11,273/377 of November 18, 2003, in which the Secretariat requested the representative of the victim and his next of kin to forward the requested information (*supra* thirty-second having seen paragraph) as soon as possible, because the time limit had expired and the representative's information had not been received.

37. The brief of November 25, 2003, in which the representative of the victim and his next of kin responded to the Court's request (*supra* thirty-second and thirty-fifth having seen paragraph). In this respect, the representative indicated that "the State ha[d] not complied with its obligation to investigate and punish those responsible for the human rights violations," because: a) Ecuador had not taken "civil, administrative or criminal measures," even though it could have done so; b) "the criminal proceeding filed against certain authors, accomplices and accessories ha[d] not advanced at all, even though [...] it should have advanced *de oficio* merely due to the normal activities of the Office of the Public Prosecutor (*Ministerio Fiscal*) and c) the National Police[,], far from punishing those responsible administratively[,], some of them continue[d] as active members of the National Police." According to the representative, "[t]his conduct by the State reveal[ed] the lack of political will [...] to comply fully with the judgments delivered by the Honorable Court," and "to avoid human rights violations such as those that had occurred [in this case] being repeated" and, therefore, "it [could] be said that the Ecuadorian State was attempting to ensure the impunity of those responsible." Lastly, as regards the setting up of the trust fund in favor of Micaela Suárez Ramadán, the representative indicated that "the State ha[d] not complied with the rulings of the Honorable Court and ha[d] simply abstained from complying with its obligations"; and it is this attitude of the State that causes Mr. Suárez Rosero concern.

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 has been a Party to the American Convention since December 28, 1977, and accepted the obligatory jurisdiction of the Court on July 24, 1984.

3. That, in this respect, 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."

4. 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 domestic law as justification for its failure to perform a treaty¹.

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

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6. That, from a detailed examination of the information contributed by the State, the representative of the victim and his next of kin, and by the Inter-American Commission, the Court has verified that:

a) The fine imposed on Rafael Iván Suárez Rosero was not enforced, and his name was eliminated from the Register of the National Council of Narcotic Drugs and Psychotropic Substances (*first operative paragraph of the judgment on reparations of January 20, 1999*);

b) The payment ordered in favor of Rafael Iván Suárez Rosero and Margarita Ramón Burbano (*subparagraph (a) and (b) of the second operative paragraph of the judgment on reparations of January 20, 1999*) has been made;

c) The payment of the costs and expenses ordered in favor of Alejandro Ponce Villacís and Richard Wilson (*third operative paragraph of the judgment on reparations of January 20, 1999*) has been made;

d) The payment ordered in favor of the minor, Micaela Suárez Ramón, by setting up a trust fund, as indicated by this Court in its judgment on reparations of January 20, 1999, in its judgment on interpretation of the judgment on reparations of May 29, 1999, and in its Order of December 4, 2001, is pending compliance; and

e) The investigation and punishment of the persons responsible for the human rights violations declared by the Court (*sixth operative paragraph of the judgment on merits of November 12, 1997*) is pending compliance. It should be recalled that, according to the Court's case law, it is inadmissible to

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; and "*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.

invoke the provisions of domestic law to try and prevent the investigation and punishment of those responsible for human rights violations².

7. That, with regard to the aspects that Ecuador has already complied with (*supra* subparagraphs (a), (b) and (c) of the sixth considering paragraph), this Court considers that it is not relevant to request any further information.

8. That the aspects that have not yet been complied with (*supra* subparagraphs (d) and (e) of the sixth considering paragraph) must be carried out by the State as soon as possible. Consequently, Ecuador must forward a report on the aspects pending compliance indicated by the Court and, subsequently, the representative of the victim and his next of kin, and the Inter-American Commission must present their comments on the State's report.

9. That the Court will consider the general status of compliance with its judgments on merits of November 12, 1997, and on reparations of January 20, 1999, when it has received the State's report and the corresponding comments on those measures of reparation (*supra* eighth considering paragraph).

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 the provisions of the first, second (subparagraphs (a) and (b)) and third operative paragraphs of the judgment on reparations delivered by the Court on January 20, 1999, as regards:

- a) Non-enforcement of the fine imposed on Rafael Iván Suárez Rosero, as stated in subparagraph (a) of the sixth considering paragraph of this Order;
- b) Elimination of the name of Rafael Iván Suárez Rosero from the Register of Criminal Records of the National Police and the Register of the National Council of Narcotic Drugs and Psychotropic Substances, as stated in subparagraph (a) of the sixth considering paragraph of this Order;
- c) The payments ordered in favor of Rafael Iván Suárez Rosero and Margarita Ramadán Burbano, as stated in subparagraph (b) of the sixth considering paragraph of this Order; and
- d) Payment of the costs and expenses ordered in favor of Alejandro Ponce Villacís and Richard Wilson, as stated in subparagraph (c) of the sixth considering paragraph of this Order.

² Cf. *Bulacio case*. Judgment of September 18, 2003. Series C. No. 100 paras. 116 and 117; *Trujillo Oroza case, Reparations*, (Art. 63.1 of the American Convention on Human Rights). Judgment of February 27, 2002, Series C. No. 92. para. 106; and *Barrios Altos case*, Judgment of March 14, 2001. Series C No. 75 para. 41.

2. That it will keep the proceeding on monitoring compliance in this case open, as regards the following matters that are pending compliance:

a) The setting up of a trust fund in favor of the minor, Micaela Suárez Ramón, as indicated by this Court in its judgment on reparations of January 20, 1999, in its judgment on interpretation of the judgment on reparations of May 29, 1999, and in its Order of December 4, 2001, and in subparagraph (d) of the sixth considering paragraph of this Order; and

b) The investigation and punishment of the persons responsible for the human rights violations declared by the Court, as stated in subparagraph (e) of the sixth considering paragraph of this Order.

AND DECIDES:

3. To urge the State to adopt all necessary measures to comply promptly with the reparations ordered in the judgments on merits (November 12, 1997), and on reparations (January 20, 1999) that are pending compliance, pursuant to Article 68(1) of the American Convention on Human Rights.

4. To call upon the State to present a detailed report indicating all the measures adopted to comply with the reparations ordered by this Court which are pending compliance, as indicated in the second operative paragraph of this Order, by April 1, 2004, at the latest.

5. To call upon the representative of the victim and his next of kin, and the Inter-American Commission on Human Rights to present their comments on the report of the State mentioned in the preceding paragraph within two months of receiving it.

6. To continue monitoring the matters pending compliance of the judgments on merits of November 12, 1997, and on reparations of January 20, 1999.

7. To notify this Order to the State, the Inter-American Commission on Human Rights and the representative of the victim and his 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,

Manuel E. Ventura-Robles
Secretary

Antônio A. Caçado Trindade
President