

**Order of the
Inter-American Court of Human Rights
of November 17, 2004
Case of the Caracazo v. Venezuela
(Compliance with Judgment)**

HAVING SEEN:

1. The judgment issued by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") on November 11, 1999, in the operative paragraphs of which it decided,

unanimously,

1. To take note of the acknowledgement by the State of Venezuela of the facts mentioned in the application and declare[d] that the dispute about these ha[d] ceased.

2. To take note, also, of the acknowledgement of responsibility by the State of Venezuela and, in accordance with the terms of this acknowledgement, declare[d] that the State violated the rights protected by Articles 4(1), 5, 7, 8(1), 25(1), 25(2)(a), and 27(3), in relation to Articles 1(1) and 2 of the American Convention on Human Rights, of the persons cited in paragraph 1 of this judgment, and in the terms established herein.

3. To take note, also, of the declaration of the State of Venezuela, with regard to the investigations initiated in order to identify, prosecute and punish those responsible for the facts mentioned in the application, and urge[d] the State to continue them.

4. To initiate the procedure on reparations and costs and authorize[d] the President to adopt the necessary procedural measures.

2. The judgment issued by the Court on August 29, 2002 on reparations, in which it decided,

unanimously,

1. that pursuant to paragraphs 118 to 120 of the [...] Judgment, the State must undertake an effective investigation of the facts in this case and identify those responsible for them, both principals and accessories before the fact, as well as possible accessories after the fact, and punish them administratively and criminally as appropriate; that the next of kin of the victims and the surviving victims must have full access and the power to act at all stages and in all proceedings during said investigations, in accordance with domestic legislation and the provisions of the American Convention on Human Rights, and that the results of those investigations must be made known to the public;

2. that the State must find, exhume, identify by means of suitable techniques and instruments, and deliver to their next of kin, pursuant to paragraphs 121 and 124 to 126 of the [...] Judgment, the mortal remains of the eighteen victims listed in those same paragraphs;

1. that the costs of burial of the mortal remains of the persons mentioned in the previous operative paragraph, in a place chosen by their next of kin, must be paid by the State, in accordance with paragraph 124 of the [...] Judgment;

4. that the State must take all necessary steps to avoid recurrence of the circumstances and facts of the instant case, in accordance with paragraph 127 of the [...] Judgment, pursuant to which it will

a) take all necessary steps to educate and train all members of its armed forces and its security agencies regarding principles and provisions on protection of human rights and the limits to which the use of weapons by law enforcement officials is subject, even under a state of emergency;

b) adjust operational plans regarding public disturbances to requirements of respect for and protection of said rights, and to this end take among other steps those required to control actions by all members of security forces in the field of operations to avoid excess, and

c) ensure that, if it is necessary to resort to physical means to face public disturbances, members of the armed forces and security agencies will use only those strictly required to control such situations in a rational and proportional manner, respecting the right to life and to humane treatment;

5. that the State must, within a reasonable period, publish at least once, in the Official Gazette and in a widely read national daily, chapter one, Introduction of the Case, paragraph 1, subparagraphs a), b), c), d), e), f) and (a) and the operative points included in chapter VII of the judgment on the merits and paragraphs 66 to 66.16 of the [...] Judgment;

6. that the State must pay, as compensation for pecuniary damage, the total sum of US\$1,559,800.00 (one million five hundred and fifty-nine thousand eight hundred United States dollars) or its equivalent in Venezuelan currency, a sum resulting from the following items:

a) US\$13,800.00 (thirteen thousand eight hundred United States dollars) due to compensation, pursuant to paragraph 85 of the [...] Judgment, for damage in connection with expenses in burial services incurred by the next of kin of the twenty-three homicide victims whose bodies were delivered by the authorities;

b) US\$37,000.00 (thirty-seven thousand United States dollars) due to compensation, pursuant to paragraph 86 of the [...] Judgment, for expenses incurred in searching for and finding the 37 homicide victims and disappeared persons, in various public offices, and expenses caused or to be caused by medical treatment that the next of kin of said victims required or will require;

c) US\$1,348,500.00 (one million three hundred and forty-eight thousand five hundred United States dollars) due to compensation, pursuant to paragraph 88 of the [...] Judgment, for damage pertaining to lost earnings of the 37 homicide victims and disappeared persons;

d) US\$29,000.00 (twenty-nine thousand United States dollars) due to compensation, pursuant to paragraph 87 of the [...] Judgment, for damage pertaining to expenses incurred or to be incurred for medical treatment and to purchase necessary means to alleviate disabilities caused by the facts of the case to the three victims of violations of the right to humane treatment; and

e) US\$131,500.00 (one hundred and thirty-one thousand five hundred United States dollars) due to compensation, pursuant to paragraph 89 of the [...] Judgment, for damage pertaining to lost earnings of the three victims of violations of the right to humane treatment;

7. in connection with payment of the items stated in the above operative paragraph, the procedure will be as follows:

a) the items listed in subparagraphs a), b) and c) of the above operative paragraph will be aggregated into a single amount and distributed among the next of kin of the victims in the manner shown in the table of paragraph 90, in combination with paragraph 91 of the [...] Judgment; and

b) the items listed in paragraphs d) and e) of the above operative paragraph will be distributed among the three victims of violations of the right to humane treatment, in the manner stated in paragraphs 90 and 92 of [the] Judgment.

8. that the State must pay, as compensation for non pecuniary damage, US\$3,921,500.00 (three million nine hundred and twenty-one thousand five hundred United States dollars) or their equivalent in Venezuelan currency, a sum that includes the following items:

- a) US\$555,000.00 (five hundred and fifty-five thousand United States dollars) as compensation, pursuant to paragraph 101 of the [...] Judgment, for suffering caused by the facts of the case to the 37 homicide victims and disappeared persons;
- b) US\$35,000.00 (thirty-five thousand United States dollars) as compensation, pursuant to paragraph 102 of the [...] Judgment, for additional suffering caused by the facts of the case to each of the seven homicide victims who were minors at the time of those facts, an amount that will augment the sum stated in the previous subparagraph;
- c) US\$90,000.00 (ninety thousand United States dollars) as compensation, pursuant to paragraph 103 of the [...] Judgment, for suffering caused by the facts of the case and by subsequent disability, to the three victims of violations of the right to humane treatment;
- d) US\$2,310,000.00 (two million three hundred and ten thousand United States dollars) as compensation, pursuant to paragraphs 104 and 105 of the [...] Judgment, for suffering caused by the facts of the case to the next of kin of the 37 homicide victims and disappeared persons;
- e) US\$256,500.00 (two hundred and fifty-six thousand five hundred United States dollars) as compensation, pursuant to paragraphs 104 *in fine* of the [...] Judgment to the next of kin of the fourteen homicide victims and disappeared persons whose remains have not been delivered to the next of kin, an amount that will augment the sum stated in the subparagraph above;
- f) US\$630,000.00 (six hundred and thirty thousand United States dollars) as compensation, pursuant to paragraphs 107 and 108 of the [...] Judgment, for non pecuniary damage related to violation of the rights to fair trial, to due process and to effective remedy, of the next of kin of the 37 homicide victims and disappeared persons;
- g) US\$30,000.00 (thirty thousand United States dollars) as compensation, pursuant to paragraphs 107 *in fine* of the [...] Judgment, for violation of the rights to fair trial, to due process and to effective remedy, of the next of kin of the four persons listed in those same paragraphs; and
- h) US\$15,000.00 (fifteen thousand United States dollars) as compensation, pursuant to paragraph 109 of the [...] Judgment, for non pecuniary damage pertaining to the violation of the rights to fair trial, to due process and to effective remedy, of the three victims of violations of the right to humane treatment;

9. regarding payment of the amounts specified in the above operative paragraph, the following procedure will be followed:

- a) payments listed in subparagraphs a) and b) will be aggregated into a single amount and distributed among the next of kin of the victims in the manner described in the Table in paragraph 110, and in paragraph 111 of the [...] Judgment;
- b) payments listed in subparagraphs c), d), e), f), g) and h) will be made directly to those entitled to the respective compensation, in accordance with the amounts stated in the Table of paragraph 110 and paragraph 111 of the [...] Judgment; and
- c) regarding persons whose ties with the victims have not been established in [the] Judgment, and who may be beneficiaries of reparations as compensation for non pecuniary damage pursuant to paragraphs 73 and 106 of the [...] Judgment, the respective payment must be made insofar as such

persons appear before the State within twenty-four months of the date the [...] Judgment is delivered and they supply authentic evidence, in accordance with domestic legislation, of their status as next of kin of one of the victims, pursuant to article 2(15) of the Rules of Procedure of the Court;

10. that the State must pay the Comité de Familiares de las Víctimas (COFAVIC) of the incidents that occurred during February-March 1989, pursuant to paragraphs 132 and 133 of the [...] Judgment, as reimbursement for legal costs and expenses incurred in proceedings under domestic jurisdiction and before the inter-American system, US\$75,000.00 (seventy-five thousand United States dollars) and US\$10,000.00 (ten thousand United States dollars) to cover expenses to be incurred in future proceedings pertaining to compliance with the [...] Judgment, and that it must pay the Center for Justice and International Law (CEJIL), pursuant to paragraph 132 of the [...] Judgment, as reimbursement for expenses and costs incurred in proceedings before the inter-American system, US\$1,000.00 (one thousand United States dollars);
 11. that the payments ordered in the [...] Judgment will be exempt from any existing or future levy or tax;
 12. that the State must comply with the measures of reparation ordered in this Judgment within twelve months of the date they are notified, except with respect to operative paragraph 9.c of the [...] Judgment;
 13. that the State must report to the Inter-American Court of Human Rights every six months after notification of the [...] Judgment, on steps taken to comply with it; and
 14. that it will oversee compliance with [the] Judgment and will declare the instant case closed once the State has fully complied with the provisions therein.
3. The March 21, 2003 note by the State of Venezuela (hereinafter "the State" or "Venezuela") and its attachments, in which it submitted information on compliance with the judgment on reparations, specifically on the steps taken by the Public Prosecutor's Office to fulfill its obligation to conduct an examination regarding the facts and to locate, identify, and exhume the mortal remains of the victims in the instant case.
4. The May 3, 2003 brief with comments by the next of kin of the victims (hereinafter "the representatives"), in which they stated that: a) "there have been no substantive changes in the legal situation of the cases pertaining to the Caracazo," as they have been in the initial stage of the proceedings in the Venezuelan venue since 1989 and they remain in absolute impunity; b) the next of kin of the missing victims in this case took all kinds of steps, both domestically and internationally, to establish their whereabouts or to request delivery of the remains of those victims whose death had been ascertained, but who were irregularly buried in mass graves in the *Cementerio General del Sur* (*cemetery*), and to date these efforts have been fruitless; c) "neither the victims nor their representatives have been invited by the State [...] to inform them of the timetable for payment of the compensations;" d) "to date there has been no adjustment of the operational plans to address public order disturbances and practice as well as domestic jurisprudence has sanctioned the use of the military in actions pertaining to public order, and e) "no note has been published [in the official gazette] with the excerpts of the judgment of the Court [on the merits] and the obligation to publish the judgments in [one] of the three main national dailies has yet to be fulfilled."
5. The June 2, 2003 brief with comments by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission"), in which they pointed out that the information submitted by the State was obscure and incomplete. The Commission also asserted that: a) the State continues to

negligently investigate the facts in this case; b) none of the provisions in the judgment on reparations that refer to the process of investigation of the illegal burial of the corpses in the mass graves in the *Cementerio General del Sur* and to identification of the remains of the victim have yielded concrete results; c) the document by the State does not contain any evidence that it has trained its armed and police forces on principles and rules for protection of human rights and on the limits to which they must submit; d) the State has not complied with the duty to publish several parts of the judgments on the merits and on reparations in the official gazette and in a major national daily, and e) the State has not contacted the victims and their next of kin to set a timetable for payments to comply with operative paragraphs six, seven, eight, and ten of the judgment on reparations.

6. The September 15, 2003 note by the State, in which it requested an extension until November 18, 2003 to submit its report on the status of compliance with the judgment on reparations in this case.

7. The September 17, 2003 note by the Secretariat of the Court (hereinafter "the Secretariat") in which, under instructions by the Court, it granted the State the extension of the deadline as requested, subject to no further extensions.

8. The September 26, 2003 brief by the representatives, in which they stated that: a) to date, fourteen years after the facts of the Caracazo, the 44 cases brought before the inter-American system for protection of human rights are in the preliminary or investigative phase, and the Public Prosecutor's Office has only taken concrete steps in two cases, pertaining to the murders of Luis Manuel Colmenares and Crisanto Mederos; b) the next of kin of the victims have received no official information on the whereabouts of their beloved ones, and there are still 65 exhumed remains from the mass graves of the sector of the *Cementerio General del Sur* called "La Peste" that have neither been identified nor delivered to their next of kin; c) they are unaware of any steps taken by the State to educate and train the members of the security agencies and armed corps regarding respect for and protection of human rights and restrictions in the use of firearms; d) the State has not published the judgments on the merits and on reparations in the official gazette nor in a nationwide daily, and e) the State has not paid the compensations for pecuniary reparations.

9. The November 18, December 8 and 15, 2003, January 26 and February 3, 2004 notes by the State, in which it reported on the steps that it was taking to comply with the pecuniary reparations ordered by the Inter-American Court, and on publication in the official gazette of the excerpts of the judgments issued by the Court on November 11, 1999 and August 29, 2002 in the instant case.

10. The January 27, February 12 and 16, 2004 briefs by the representatives, in which they pointed out that: a) since the judgment on reparations was issued there have been no substantive changes in the situation of the domestic proceedings in the cases pertaining to the Caracazo; b) despite the steps they have taken, the next of kin of the victims have still not had access to reliable information on the events, the missing persons, or the remains of their beloved ones; c) the State has implemented no human rights training program for security forces, and it has not adjusted the operational plans to address public order disturbances, and d) the State has begun to take certain steps to pay the pecuniary reparations, but to date they have not been paid. The representatives asked the Court, as part of its oversight functions, "to support the request by the representative of the victims for the Venezuelan State

to contract the services of *Equipo Argentino de Antropología Forense*, to aid in the process of exhuming and identifying the victims and gathering forensic evidence." The representatives also reported that the State published the excerpts of the judgment on the merits and on reparations issued by the Court in this case in the daily "Ultimas Noticias" and in the official gazette, "thus complying with operative paragraph 5 of the August 29, 2002 judgment on reparations", and that it deposited Bs. 136,170,000.00 (one hundred and thirty-six million one hundred and seventy thousand bolivares) warrant for payment in favor of the *Comité de Familiares de las Víctimas* (COFAVIC) of the incidents of February-March, "thus partly complying with point 10 of the operative section of the judgment on reparations."

11. The February 13, 2004 brief with comments by the Inter-American Commission, in which they referred to the information supplied by the State and they pointed out that the latter: a) to date has not conducted a serious and effective investigation to identify and punish the direct perpetrators and masterminds of the facts of the Caracazo as well as the accessories after the fact; b) has not elucidated the facts regarding the forced disappearance of the victims, has not established their whereabouts and has not returned the remains of the victims to their next of kin, if that were the case; c) to date has conducted no investigation to identify, prosecute, and disciplinarily, administratively and criminally punish those responsible for the illegal burial of the corpses in the mass graves of the "la Peste" sector of the *Cementerio General del Sur*; has not continued the process of exhumation of the corpses, which came to a standstill in 1991, and e) has not adjusted the operational plans to address public order disturbances, nor has it trained its Armed and Police Forces on the principles of and rules for protection of human rights and on restrictions to the use of firearms.

12. The June 11, 2004 note by the State, in which it referred to the status of compliance with the judgment on reparations and it said that it was sending two folders with attachments. Said attachments were received on August 11, 2004, including the certified copies of files No. S-3940 of the Sixth Trial Court of Civil, Mercantile, and Traffic-related Affairs of the Court Circuit of the Metropolitan Area of Caracas and No. 58.600 the 11th Courtroom of the Court for Protection of Children and Adolescents of the Court Circuit of the Metropolitan Area of Caracas, certifying payment by Venezuela of the compensations ordered in the instant case, as well as the procedure to deposit the compensations owed to beneficiaries who are minors.

13. The September 23, 2004 brief by the representatives, in which they filed their comments on the information submitted by the State (*supra* Having Seen 12). In said brief, they pointed out that the State has made efforts to fulfill its obligation to compensate the next of kin of the victims and has published the excerpts of the judgments, but they stressed that it is necessary for Venezuela to fully comply with the other operative paragraphs of the judgment on reparations, such as: a) effective investigation of the facts and punishment of those responsible; b) identification and delivery of the remains of the victims to their next of kin; c) implementation of human rights training of the security forces, and d) adjustment of the operational plans to address public order disturbances. They also stated that the authorization by the Venezuelan National Assembly for the National Executive to decree an additional Bs. 8,918,014,600.00 (eight billion nine hundred and eighteen million fourteen thousand and six hundred bolivares) loan for payment of the compensations ordered by the Court in the judgment on reparations was published in the official gazette on December 4, 2003, and that on January 23, 2004 the State deposited

payment in favor of the *Comité de Familiares de las Víctimas de los Sucesos de Febrero - Marzo de 1989* (COFAVIC), thus partly complying with operative paragraph ten of the judgment on reparations. Finally, they asked the Court to continue monitoring compliance with said judgment on reparations and to take into account the request by the representatives that the State hire the *Equipo Argentino de Antropología Forense* (EAAF) to aid in the process of exhumation and identification of the victims and in gathering forensic evidence.

14. The October 15, 2004 brief by the Inter-American Commission, filed after an extension had been granted, in which it submitted its comments on the information supplied by the State (*supra* Having Seen 12). In this regard, the Commission pointed out that the State: a) has not conducted a serious and effective investigation that enables investigation and punishment of the direct perpetrators, masterminds, and accessories after the fact; b) has not elucidated the facts that gave rise to the forced disappearances, nor has it located the victims or returned the remains to their next of kin; d) to date has not conducted an investigation to identify, prosecute, and disciplinarily, administratively and criminally punish those responsible for the illegal burial of the corpses in the mass graves of the sector of the *Cementerio General del Sur* known as "la Peste"; e) has not continued the process of exhumation of the bodies that came to a standstill in 1991, and f) has not adjusted the operational plans to face public order disturbances, and has not trained its armed and police forces regarding the principles of and rules for protection of human rights and restrictions on the use of firearms. The Commission also pointed out that the State published the sections of the judgments on the merits and on reparations ordered by the Court in official gazette No. 37.868 of January 29, 2004, for which reason it deemed that it had complied with operative paragraph five of the judgment on reparations, despite the delay. Regarding payment of compensation for pecuniary and non pecuniary damages, the Commission expressed its appreciation for the efforts made by the State to comply with the orders of the Inter-American Court.

15. The November 4, 2004 note by the Secretariat of the Court, in which, under instructions by the President of the Court, it asked the Inter-American Commission and the representatives for their comments on the documents supplied by the State regarding payment of the compensations ordered in operative paragraphs six, seven, eight, nine, and ten of the judgment on reparations.

16. The November 11, 2004 letter by the representatives, in which they expressed, after a "detailed examination of the report and the attachments submitted by the State[,] [their] agreement with [its] content regarding compliance with the obligation to publish excerpts of the judgment on the merits and on reparations, included in paragraph 143.5 of the judgment on reparations, as well as the obligation to compensate the beneficiaries, both next of kin and victims, as set forth in paragraphs 143.6; 143.7; 143.8; 143.9 and 143.11 of said judgment, in addition to payment of legal costs[,] pursuant to the provisions of paragraphs 143.10 and 143.11 of said ruling." They also expressed their satisfaction with the modes of compliance by the State with the aforementioned obligations, for which reason they stated their positive appreciation of these signs of compliance. However, they insisted that compliance must include the other obligations set forth in said judgment, as to date there have been no substantive acts to comply with them.

17. The November 12, 2004 note by the Inter-American Commission, in which it submitted its observations on payment of the compensations ordered by the Court in

operative paragraphs six, seven, eight, nine, and ten of the judgment on reparations. In this regard, they pointed out that "it is the understanding of the Commission, through its communication with the representatives, that they fully agree regarding compliance with the aforementioned obligations and the modes of compliance" and that mechanisms for their implementation have respected the orders of the Court. Therefore, the Commission stated its "opinion that it [wa]s pertinent to deem that the State has complied with said obligations." Regarding the other obligations of the State, the Commission deemed that oversight of compliance should continue until the State has fully complied with them.

WHEREAS:

1. Oversight of compliance with its decisions is an authority inherent to the judicial functions of the Court.
2. Venezuela has been a State party to the American Convention since August 9, 1977 and it accepted the adjudicatory jurisdiction of the Court on June 24, 1981.
3. In view of the final and unappealable nature of the judgments of the Court, pursuant to Article 67 of the American Convention, the State must fully and promptly comply with them.
4. Article 68(1) of the American Convention sets forth 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 branches or bodies of the State.
5. The obligation to comply with the orders issued by the Court in its rulings is in accordance with a basic principle of Law regarding the international responsibility of the State, backed by international jurisprudence, according to which the States must carry out their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has stated and is set forth in Article 27 of the 1969 Vienna Convention on the Law of Treaties, they may not refuse to undertake the international responsibility already set forth by arguing domestic reasons.¹ The treaty obligations of the States Party are binding for all the branches and bodies of the State.
6. The States Party to the Convention must ensure compliance with the treaty provisions and their effective application (*effet utile*) in their respective domestic legal systems. This principle applies not only to substantive provisions of the human rights treaties (that is, those containing provisions regarding the rights protected), but also with respect to the procedural provisions, such as those pertaining to compliance with the decisions of the Court. These obligations must be interpreted and applied in a manner that ensures that the right protected is truly practical and effective, taking into account the special nature of human rights treaties.²

¹ See *Matters of: Liliana Ortega et al., Luisiana Ríos et al., Luis Uzcátegui, Marta Colomina and Liliana Velásquez*. Provisional Measures. May 4, 2004 Order of the Inter-American Court of Human Rights, Whereas seven; *Case of Baena-Ricardo et al.*, *supra* note 1, para. 128; and *Case of Barrios Altos*. Compliance with Judgment. November 28, 2003 Order of the Inter-American Court of Human Rights, Whereas six.

² See *Matters of: Liliana Ortega et al., Luisiana Ríos et al., Luis Uzcátegui, Marta Colomina and Liliana Velásquez*. Provisional Measures. May 4, 2004 Order of the Inter-American Court of Human Rights,

7. The States Party to the Convention that have accepted the adjudicatory jurisdiction of the Court have the duty to fulfill the obligations established by the Court. In this regard, the State must report on steps taken to comply with the orders issued by the Court in said rulings. Timely observance of the obligation of the State to inform the Court of how it is complying with each of the points ordered by the Court is fundamental to assess overall compliance by the State with the Judgment.

8. While overseeing comprehensive compliance with the Judgments on the merits and reparations issued in the instant case, and after analyzing the information supplied by the State, by the Inter-American Commission and by the representatives in their briefs on compliance with reparations (*supra* Having Seen 3, 4, 5, 8 to 14, 16 and 17), the Court has verified that the State has complied with:

- a) payment of compensation for the pecuniary damages (*operative paragraph six*), which includes compensation for damages pertaining to burial service expenses incurred by the next of kin of twenty-three victims whose bodies were already delivered by the authorities (*operative paragraph 6(a)*); compensation for expenses incurred or to be incurred due to medical treatment that the next of kin of said victims required or will require (*operative paragraph 6(b)*); compensation for damages pertaining to lost earnings of the 37 murdered and missing victims (*operative paragraph 6(c)*); compensation for damages pertaining to the expenses incurred or to be incurred by medical treatment and purchase of the necessary means to attenuate the disabilities caused by the facts of the case to the three victims of injuries in connection with the right to humane treatment (*operative paragraph 6(d)*), and compensation for damages pertaining to lost earnings of the three victims of injuries in connection with the right to humane treatment (*operative paragraph 6(e)*);
- b) the parameters ordered by the Court for payment of the compensations set in operative paragraph six (*operative paragraph seven*);
- c) payment of compensation for non pecuniary damages (*operative paragraph eight*), including compensation for the suffering caused by the facts of the case to the 37 murdered and missing victims (*operative paragraph 8(a)*); compensation for the additional suffering caused by facts of the case to each of the seven murder victims who were minors at the time of said facts, in addition to the aforementioned amount (*operative paragraph 8(b)*); compensation for the suffering caused by the facts of the case and by the subsequent disability, to the three victims of injuries in connection with the right to humane treatment (*operative paragraph 8(c)*); compensation for the suffering caused by the facts of the case to the next of kin of the 37 murdered and missing victims (*operative paragraph 8(d)*); compensation for

Whereas twelve; *Case of Baena-Ricardo et al.*. Competence, *supra* note 1, para. 66; *Case of the Constitutional Court. Competence*. September 24, 1999 Judgment. Series C No. 55, para. 36; and *Case of Ivcher-Bronstein. Competence*. September 24, 1999 Judgment. Series C No. 54, para. 37. Also see, *inter alia*, *Case of the "Juvenile Reeducation Institute"*. September 2, 2004 Judgment. Series C No. 112, para. 205; *Case of the Gómez-Paquiyauri Brothers*. July 8, 2004 Judgment. Series C No. 110, paras. 150 and 151; and *Case of Bulacio*. September 18, 2003 Judgment. Series C No. 100, para. 142. Likewise, see *Klass and others v. Germany, (Merits) Judgment of 6 September 1978*, ECHR, Series A no. 28, para. 34; and *Permanent Court of Arbitration, Dutch-Portuguese Boundaries on the Island of Timor, Arbitral Award of June 25, 1914*.

the additional suffering caused by the facts of the case to the next of kin of fourteen murdered and missing victims whose remains have not yet been delivered to said next of kin, in addition to the aforementioned amount (*operative paragraph 8(e)*); compensation for the non pecuniary damages in connection with abridgment of the right to fair trial, due process and access to an effective remedy, of the next of kin of the 37 murdered and missing victims (*operative paragraph 8(f)*); compensation for the non pecuniary damages in connection with abridgment of the right to fair trial, due process and access to an effective remedy, of the next of kin of the four persons who died in the context of the facts of this case, but whose death was not attributed to the State in the judgment on the merits because there was no acknowledgment of State responsibility in connection with them (*operative paragraph 8(g)*); and compensation for the non pecuniary damages in connection with abridgment of the right to fair trial, due process and access to an effective remedy, of the three victims of injuries in connection with the right to humane treatment (*operative paragraph 8(h)*);

- a) the parameters set forth by the Court of the compensations ordered in operative paragraph eight (*operative paragraph nine*);
 - b) payment to the *Comité de Familiares de las Víctimas* (COFAVIC) of the incidents between February-March 1989 as reimbursement of the legal costs and expenses generated by actions under domestic venue and before the inter-American system, and to cover future expenses in connection with compliance with the [...] Judgment (*operative paragraph ten*), and
 - c) publication, in a reasonable time, in the official gazette and in a newspaper with national circulation, of chapter I, Filing of the Case, paragraph 1 subparagraphs a), b), c), d), e), f) and (a) and the operative points included in chapter VII of the judgment on the merits and paragraphs 66 to 66.16 of the judgment on reparations (*operative paragraph five*).
9. While overseeing comprehensive compliance with the Judgment on reparations issued in the instant case, and after analyzing the information supplied by the State, by the Inter-American Commission and by the representatives of the victims and their next of kin in their briefs on compliance with reparations (*supra Having Seen 3, 4, 5, 8 to 14, 16 and 17*), the Court notes that it does not have sufficient information on the following points regarding which compliance is pending:

- a) actions taken to investigate, identify, and administratively and criminally punish, with all the conditions and characteristics set forth in the judgment (*operative paragraph one*);
- a) actions taken to locate, exhume, identify, and deliver to their next of kin the mortal remains of some of the victims (*operative paragraph two*);
- b) if there were exhumations, whether the State covered the costs and took into account the place chosen by the next of kin to bury the mortal remains of the persons to whom operative paragraph two refers (*operative paragraph three*);
- c) steps taken to avoid repetition of the circumstances and facts of the instant case (*operative paragraph four subparagraphs a), b) and c)*, and

d) payment of legal costs and expenses in favor of the Center for Justice and International Law (CEJIL) (*operative paragraph ten*).

1. The Court will consider the general status of compliance with its Judgment on reparations, as well as with the instant Order, once it receives the relevant information on the measures regarding which compliance is pending.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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

FINDS:

1. That the State has complied with payment of the compensation ordered for pecuniary and non pecuniary damages (*operative paragraphs six, seven, eight, and nine of the Judgment on Reparations issued by this Court on August 29, 2002*); with payment of the legal costs and expenses in favor of the *Comité de Familiares de las Víctimas* (COFAVIC) of the incidents between February-March 1989 (*operative paragraph ten of the Judgment on Reparations issued by this Court on August 29, 2002*), and with publication of the excerpts of the judgments on the merits and on reparations issued in the instant case (*operative paragraph five of the Judgment on Reparations issued by this Court on August 29, 2002*), pursuant to Whereas eight of the instant Order.

2. That it will continue to oversee compliance with the points regarding which compliance is currently pending in the instant case, mentioned in Whereas nine, subparagraphs a), b), c), d), and e) of the instant Order.

AND DECIDES:

1. To order the State to take such steps as may be necessary, pursuant to the provisions of Article 68(1) of the American Convention on Human Rights, to put into effect and promptly comply with those orders issued by the Court in the August 29, 2002 Judgment on reparations with respect to which compliance is pending, as well as with the provisions set forth in the instant Order.

2. To ask the State to submit to the Inter-American Court of Human Rights, no later than January 31, 2005, a report stating all the steps taken to comply with the reparations ordered by this Court that are currently pending compliance, pursuant to the provisions set forth in Whereas nine and in point two of the declaratory section of the instant Order.

3. To ask the representatives de the next of kin of the victims to submit their comments on the report by the State mentioned in the previous operative paragraph within four weeks from the date they receive it. Specifically, the Court asks them to report whether payment of the legal costs and expenses ordered by this Court in

favor of the Center for Justice and International Law (CEJIL) is pending, as mentioned in Whereas nine subparagraph e) of the instant Order.

4. To ask the Inter-American Commission on Human Rights to submit its comments on the report by the State mentioned in operative paragraph two of the instant Order within six weeks of the date they receive it.

5. To continue overseeing those aspects of the Augusts 29, 2002 Judgment on Reparations regarding which compliance is currently pending.

6. To notify the instant Order to the State, to the Inter-American Commission on Human Rights, and to the representatives of the next of kin of the victims.

Sergio García Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary