

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS***
OF JULY 4, 2006
THE "CHILDREN'S REHABILITATION INSTITUTE"
V. PARAGUAY
COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The judgment delivered by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of September 2, 2004, in which:

[IT] DECIDE[D]

Unanimously,

1. To reject the preliminary objections filed by the State concerning the legal defect in the presentation of the application and the failure to claim the violation of Article 26 of the American Convention [at the appropriate stage of the proceedings].

2. To consider that the preliminary objection concerning *lis pendens* filed by the State has been withdrawn, owing to the waiver by the State.

3. To continue hearing the instant case.

DECLAR[ED],

Unanimously, that:

4. The State had violated the rights to life and to humane treatment embodied in Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention on Human Rights, in relation to Article 1(1) thereof, and also in relation to Article 19 of the Convention when the victims were children, to the detriment of all the interns in the Institute between August 14, 1996, and July 25, 2001, in the terms of paragraphs 176 and 190 of the [...] judgment.

5. The State had violated the right to life embodied in Article 4(1) of the American Convention, in relation to Article 1(1) thereof, and also in relation to Article 19 of the Convention when the victims were children, to the detriment of the 12 interns who died, in the terms of paragraphs 179, 184, 186 and 190 of the [...] judgment.

6. The State had violated the right to humane treatment embodied in Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of the children who were injured owing to the fires; and the right to humane

* Judge Oliver Jackman informed the Court that, for reasons beyond his control he would be unable to attend the seventy-first regular session of the Court; consequently, he did not take part in the deliberation and signature of this Order.

treatment embodied in Article 5(1) of the American Convention, in relation to Article 1(1) thereof, to the detriment of the individualized next of kin of the interns who died and were injured, all in the terms of paragraphs 188, 190 and 193 of the [...] judgment.

7. The State had failed to comply with the obligation to adopt provisions of domestic law and had violated the right to judicial guarantees embodied, respectively, in Articles 2 and 8(1) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of all the children interned in the Institute between August 14, 1996, and July 25, 2001, in the terms of paragraph 213 of the [...] judgment.

8. The State had violated the right to judicial protection established in Article 25 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the 239 interns named in the general *hábeas corpus* decision, in the terms of paragraph 251 of the [...] judgment.

AND DECIDE[D],

Unanimously, that:

9. The judgment constitutes *per se* a form of reparation, in the terms of paragraphs 299 and 323 of the [...] judgment.

10. The State shall publish once, within six months, in the official gazette and in another newspaper with national circulation, the chapter on the proven facts of the judgment, without the corresponding footnotes, and its operative paragraphs, in the terms of paragraph 315 of the [...] judgment.

11. The State shall organize, in consultation with civil society and within six months, a public act to acknowledge international responsibility and to make a declaration containing a short, medium and long-term State policy concerning children in conflict with the law that is fully consistent with the international commitments of Paraguay. This State policy should:

- a) Be presented by the senior authorities of the State in a public act in which it acknowledges the international responsibility of Paraguay for the shortcomings of the detention conditions in the Institute between August 14, 1996, and July 25, 2001; and
- b) Include, among other elements, strategies, appropriate actions and the assignment of the essential resources to ensure that children deprived of liberty are separated from adults; that children who are being prosecuted are separated from those who have been convicted; and for the creation of comprehensive educational, medical and psychological programs for children deprived of liberty.

12. The State shall provide psychological treatment for the former interns in the Institute between August 14, 1996, and July 25, 2001; medical and/or psychological treatment for the former interns injured in the fires, and psychological treatment for the next of kin of the interns who died or were injured, in the terms of paragraphs 318 to 320 of the [...] judgment.

13. The State shall provide vocational assistance, and also a program of special education, for the former interns of the Institute between August 14, 1996, and July 25, 2001, in the terms of paragraph 321 of the [...] judgment.

14. The State shall provide to María Teresa de Jesús Pérez, within 15 days of notification of the judgment, a place to bury her son, Mario del Pilar Álvarez Pérez, in a cemetery near her residence, in the terms of paragraph 322 of the [...] judgment.

15. The State shall pay special attention to safeguarding the life, integrity and security of those who testified and of their next of kin, and shall provide the necessary protection from any persons, taking into account the circumstances of this case, in the terms of paragraph 324 of the [...] judgment.

16. The State shall pay a total of US\$953,000.00 (nine hundred and fifty-three thousand United States dollars) or the equivalent in the national currency, for pecuniary damage, in the terms of paragraphs 288 to 294 of the judgment, distributed as follows:

- a) To the interns who died: Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo, Carlos Raúl of the Cruz, Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez, the amount of US\$40,000.00 (forty thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 288, 289 and 294 of the [...] judgment;
- b) To Juan Carlos Zarza Viveros, Miguel Ángel Coronel Ramírez, Sergio Vincent Navarro Moraez, Alberto David Martínez, Miguel Ángel Martínez, Raúl Esteban Portillo, César Fidelino Ojeda Acevedo, Pedro Iván Peña, Ever Ramón Molinas Zárata, Arsenio Joel Barrios Báez and Francisco Ramón Adorno, the amount of US\$15,000.00 (fifteen thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 290, 291 and 294 of the [...] judgment;
- c) To Alfredo Duarte Ramos, Abel Achar Acuña, Osvaldo Mora Espinola, Ismael Méndez Aranda and Hugo Antonio Vera Quintana, the amount of US\$13,000.00 (thirteen thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 290, 291 and 294 of the [...] judgment;
- d) To Clemente Luis Escobar González, Juan Ramón Lugo and Carlos Román Feris Almirón, the amount of US\$11,000.00 (eleven thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 290, 291 and 294 of the [...] judgment;
- e) To Pablo Ayala Azola, Julio César García, José Amado Jara Fernández, Rolando Benítez, Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas, the amount of US\$9,000.00 (nine thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 290, 291, 292 and 294 of the [...] judgment; and
- f) To the next of kin of the former interns Francisco Ramón Adorno, Sergio David Poletti Domínguez and Mario del Pilar Álvarez Pérez, US\$1,000.00 (one thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 293 and 294 of the [...] judgment.

17. The State shall pay the amount of US\$2,706,000.00 (two million seven hundred and six thousand United States dollars) or the equivalent in the national currency, as compensation for non-pecuniary damage, in the terms of paragraphs 304 to 309 of the [...] judgment, distributed as follows:

- a) To the interns who died: Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo and Carlos Raúl of the Cruz, the amount of US\$65,000.00 (sixty-five thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 304 and 309 of the [...] judgment;
- b) To the interns who died: Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez, the amount of US\$50,000.00 (fifty thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 304 and 309 of the [...] judgment;
- c) To Juan Carlos Zarza Viveros, Miguel Ángel Coronel Ramírez, Sergio Vincent Navarro Moraez, Alberto David Martínez, Miguel Ángel Martínez, Raúl Esteban Portillo and César Fidelino Ojeda Acevedo, the amount of US\$50,000.00 (fifty thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 305 and 309 of the [...] judgment;

- d) To Pedro Iván Peña, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez and Francisco Ramón Adorno, the amount of US\$45,000.00 (forty-five thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 305 and 309 of the [...] judgment;
 - e) To Alfredo Duarte Ramos, Abel Achar Acuña, Osvaldo Mora Espinola, Ismael Méndez Aranda and Hugo Antonio Vera Quintana, the amount of US\$40,000.00 (forty thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 305 and 309 of the [...] judgment;
 - f) To Clemente Luis Escobar González, Juan Ramón Lugo and Carlos Román Feris Almirón, the amount of US\$30,000.00 (thirty thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 305 and 309 of the [...] judgment;
 - g) To Pablo Ayala Azola, Julio César García, José Amado Jara Fernández, Rolando Benítez, Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas, the amount of US\$22,000.00 (twenty-two thousand United States dollars) or the equivalent in the national currency, in the terms of paragraphs 305, 306 and 309 of the [...] judgment;
 - h) To the individualized next of kin of the interns who died, the amount of US\$25,000.00 (twenty-five thousand United States dollars) or the equivalent in the national currency for each parent, in the terms of paragraphs 307 and 309; and
 - i) To the individualized next of kin of the former interns who were injured in the fires, the amount of US\$15,000.00 (fifteen thousand United States dollars) or the equivalent in the national currency for each one, in the terms of paragraphs 307 and 309 of the [...] judgment.
18. The State shall pay for costs and expenses the amount of US\$5,000.00 (five thousand United States dollars) or the equivalent in the national currency to the Tekojojá Foundation, and the amount of US\$12,500.00 (twelve thousand five hundred United States dollars) or the equivalent in the national currency to the Center for Justice and International Law (CEJIL), in the terms of paragraph 330 of the [...] judgment.
19. The State shall make the payment of the compensation and the reimbursement of costs and expenses within one year of notification of the judgment, in the terms of paragraph 331 thereof, unless a different time limit has been established as stipulated in paragraphs 315 to 322 and 331 of the judgment.
20. The State shall deposit the compensation ordered in favor of the victims who are children in a bank deposit certificate in their name in a solvent Paraguayan institution, in United States dollars, within one year, and in the most favorable conditions permitted by law and banking practice, until they come of age, in the terms of paragraph 336 de [l]a judgment.
21. The State may comply with its obligations of a pecuniary nature by payment in United States dollars or an equivalent amount in the national currency, using the exchange rate between the two currencies in force on the New York, United States, market the day before payment is made. In the case of the bank deposit certificate, this shall be in United State dollars, in the terms of paragraphs 335 and 336 of the judgment.
22. The payments for pecuniary damage, non-pecuniary damage, and costs and expenses established in the judgment, may not be affected, reduced or conditioned by current or future taxes or charges, in the terms of paragraph 337 of the [...] judgment.
23. If the State delays payment of these sums, it shall pay interest on the amount owed corresponding to banking interest on arrears in Paraguay.
24. If, for reasons that can be attributed to the beneficiaries of this compensation, they are unable to receive it within the indicated period of one year of notification of the judgment, the

State shall deposit the amounts in favor of the beneficiaries in an account or a deposit certificate in a solvent Paraguayan banking institution, in the terms of paragraph 335 of the [...] judgment.

25. It will monitor compliance with all the terms of this judgment and will consider the instant case concluded when the State has complied fully with all its terms. Within one year of notification of this judgment, the State shall report to the Court on the measures adopted to comply with it, in the terms of paragraph 339 thereof.

2. The brief of March 8, 2005, in which the Tekojojá Foundation and the Center for Justice and International Law (CEJIL), representatives of the victims and their next of kin (hereinafter "the representatives"), requested that "in the publication that the State must make [...] to comply with the [tenth] operative paragraph of the judgment [...], the names of the children and their next of kin, which are mentioned in both the chapter on proven facts and in the operative paragraphs of the judgment, be omitted and, instead, only their initials be included [...] in order to protect the safety and integrity of the young people and their families."

3. The note of the Secretariat of March 15, 2005, informing the representatives that their request of March 8, 2005 (*supra* Having seen paragraph 2), had been granted.

4. The brief of April 27, 2005, in which the State del Paraguay (hereinafter "the State" or "Paraguay") advised that, on April 23, 2005, "the proven facts and the operative paragraphs of the [judgment had been published] in the newspaper, "La Nación," with national circulation, bearing in mind the request of the representatives of the victims" (*supra* Having seen paragraph. 2).

5. The brief of October 5, 2005, in which Paraguay submitted a report on compliance with the judgment, in the following terms:

- a) Regarding the publication of the pertinent parts of the judgment: on April 23, 2005, the State had published the operative paragraphs of the judgment in the newspaper, "La Nación," and on May 18, 2005, the publication had been made in the official gazette;
- b) Regarding the organization of a public act to acknowledge international responsibility and announce a State policy for children in conflict with the law: the State had requested that representatives of different governmental institutions be appointed in order to establish a "technical task force" to elaborate short, medium and long-term policies concerning children in conflict with the law. The representatives of the victims would participate in this group. Once the said task force had been established, its work would begin. In this regard, the public acknowledgement would be made as soon as the results could be implemented in the community;
- c) Regarding the State's obligation to provide psychological treatment to all those who were interns of the Institute between August 14, 1996, and July 25, 2001, as well as medical and/or psychological treatment to the former interns who were injured in the fires, and psychological treatment to the next of kin of the interns who had died or been injured, the Ministry of Public Health and Social Welfare had issued Resolution No. 654 establishing the regulations for the medical and psychological treatment of the interns and former interns affected by the successive fires that had occurred in the "Panchito López" Children's Rehabilitation Institute, as well as their next of

- kin. Moreover, these regulations established that medical and/or psychological care should be provided to the interns and former interns who had suffered burns, injuries or harm in any of the fires that had occurred in this establishment, between August 14, 1996, and July 25, 2001. Psychological care to mitigate the physical or mental aftereffects for the interns and former interns and their respective next of kin that could be attributed directly to the fires referred to in the judgment of the Court was also stipulated. Moreover, it was established that medical, psychological and any other assistance would be free of charge, and also that basic available medication would be provided to the interns and former interns of the said Institute who had been victims, and their respective families. Another Resolution was issued setting up an *ad hoc* Committee for the Physical and Psychological Evaluation and Monitoring of the victims of the fires that occurred in the Institute and their next of kin, within the Ministry of Health. Representatives of different agencies take part in this committee and also the representative of the Tekojojá Foundation;
- d) Regarding the vocational assistance that the State must provide, and also a program of special education for the former interns of the Institute between August 14, 1996, and July 25, 2001, the Ministry of Foreign Affairs decided to establish an Inter-institutional Working Group, coordinated by the Ministry of Foreign Affairs, with the task of uniting all the institutions and civil society organizations involved in the work of complying with the operative paragraphs of the judgment. The following attend the meetings of this working group regularly: representatives of the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice and Labor, the Ministry of Public Health and Social Welfare, the National Secretariat for Children and Adolescents, the Ombudsman's Office, the Attorney General's Office, the Supreme Court of Justice and the National Congress. Civil society is represented by the victims' next of kin, representatives of the "Panchito López Victims Association," and the Tekojojá Foundation. The focus of the meetings has been the establishment of strategies for strict compliance with the decisions of the Court. A partial list of the persons who are already receiving assistance has been drawn up. Lastly, the Working Group has negotiated the issue of credentials to identify the beneficiaries, in order to facilitate medical, psychological and psychiatric services for the victims and their next of kin;
- e) Regarding the State's obligation to provide Mrs. Pérez with a place to bury her son, Mario del Pilar Álvarez Pérez, in a cemetery near her residence, it advised that "a place has been reserved for the victim's remains in the "Cementerio del Este," one of the main cemeteries in Asunción," and
- f) Regarding the pecuniary payments for reparations and other expenses, in February and June 2005, the State had reached agreement with the Ministry of Finance for the payment of this compensation by increasing the budget for the 2005 fiscal year. Moreover, the Attorney General's Office (*Procuraduría General*) had issued a favorable opinion on the payment of the compensation. In this context, the budgetary needs for the 2006 fiscal year had already been announced and submitted to the consideration of the National Congress by the Executive Branch, and Congress had initiated the necessary studies for the 2006 General Budget of National Expenditure. The Inter-institutional Group had met with several parliamentarians to request that the pecuniary reparations be included in the 2005 budget and, if this were not possible, that

these reparations should be included in the budget for the 2006 fiscal exercise. In addition, the Deputy Minister for Financial Administration of the Ministry of Finance had stated that expenses in the draft budget being studied by the National Congress were being reprogrammed in order to prepare a payment schedule for the compensation ordered in this case.

6. The brief of October 19, 2005, in which the State forwarded the "regulations for the medical and psychological treatment [...] of the Ministry of Public Health and Social Welfare of Paraguay."

7. The brief of November 23, 2005, in which the representatives of the victims and their next of kin presented their observations on the first report of the State (*supra* Having seen paragraph 5) as follows:

- a) The obligation to publish the proved facts and the operative paragraphs of the judgment was complied with by the State, even though this publication had not respected the allotted time of six months stipulated by the Court;
- b) They had noted with concern the fact that more than a year had elapsed and Paraguay had not made any progress in the elaboration of the State policy ordered by the Court because, although communications had been sent, no response had yet been received from the said public institutions. Furthermore, the public act to acknowledge international responsibility had not been organized, and it was not sufficient that the authorities had agreed to this act. Consequently, the Court was asked to require the State to comply promptly with this measure of reparation;
- c) The resolutions adopted are merely administrative measures and, in practice, have been insufficient to comply with the reparations ordered by the Court concerning medical and psychological treatment. The State had only partly distributed some identity cards to facilitate former interns and next of kin of interns of the Institute receiving medical care. They also stated that, regarding the victims in the case who are still deprived of their liberty, non-compliance was even more serious, because the health situation within the establishment was very precarious; consequently, they requested the Court to pay special attention to monitoring this measure of reparation. Two examples of the lack of medical care for the victims of the case are those of Francisco Noé Andrade Báez and Arsenio Joel Barios Báez who suffer from tuberculosis and pneumonia and, despite this, do not receive adequate medication or medical care;
- d) Although the State had indicated that it had made available to the victims the educational services that could be provided by representatives of the Ministry of Education and Culture, no program of special education had been established; neither had the vocational assistance program ordered by the Court been made available to the victims. Despite repeated requests in this regard, officials from the National Professional Promotion Service had not been involved;
- e) They had not received any official notification about the final delivery of a place in the *Cementerio del Este* for the remains of Mario del Pilar Álvarez Pérez. To the contrary, his mother had only received warnings from the personnel of the cemetery that they would take away the space in which her

son is buried. Accordingly, they requested the Court to require the State to provide the necessary guarantees concerning the granting of a definitive place for the burial of the remains of the former intern, and

- f) From the State's report, there was no evidence that the Executive Branch had introduced the payment of the compensation in this case into the budget submitted to the National Congress. In this regard, the failure of the State to present a precise timetable concerning the way in which the compensation would be paid made it impossible to assess progress in compliance with this aspect.

8. The brief of December 19, 2005, in which, after having been granted an extension, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") presented observations on the State's report (*supra* Having seen paragraph 5), and considered that:

- a) The State had taken a series of administrative steps to comply with the judgment;
- b) A dispute existed regarding the provision of a place for the burial of the son of Mrs. Pérez. Moreover, the State should have complied with this obligation within 15 days and, considering its simplicity and specificity, there should have been no major delay. Consequently, the Commission deemed it pertinent that the State should be required to present appropriate and specific information on compliance with this obligation;
- c) Although the publications of the pertinent part of the judgment had been made more than six months after the judgment had been notified, the State had complied fully with this aspect; accordingly, there was no longer any need to monitor it;
- d) The establishment by the State of short, medium and long-term policies concerning children in conflict with the law was extremely important. In addition, the Commission considered that it was of fundamental importance to ensure the non-repetition of the facts. The Commission agreed with the representatives that more than a year had elapsed since notification of the judgment and the task force responsible for drawing up these policies had not been created. Regarding the public acknowledgement of responsibility, although the State had underscored the intention of both the President of the Republic and other authorities, there had been no formal progress in compliance; therefore the Commission considered that the State had failed to comply with this obligation;
- e) Based on the information provided by the other parties concerning medical, psychological, vocational and educational assistance, the Commission considered that some measures had been taken towards compliance, but it was not possible to determine whether the measures of reparation ordered by the Court had been executed. In addition, most of the progress had been administrative, rather than in relation to the direct assistance to the victims and their next of kin established in the judgment. It was also concerned about the health situation of some of the victims who were deprived of their liberty. Lastly, the Commission considered that the State should submit more

complete and more current information on its actions with regard to these operative paragraphs;

- f) The State had taken some steps at the domestic level towards making the payment. Nevertheless, it considered that the information provided was insufficient to identify a timetable regarding each of the different measures of compensation. In addition, the Commission indicated that this payment continued to be pending and, bearing in mind that the payments had not been made within the allotted time of one year, when paid, they should be increased by interest on arrears;
- g) Neither the State nor the representatives had referred to compliance with the measures necessary to safeguard the life, integrity and security of Dirma Montserrat Peña, Pedro Iván Peña and Raúl Esteban Portillo. Hence, the Commission considered that it was pertinent to require the State to provide information on the measures adopted to comply with this obligation, and
- h) In general, the Commission considered that, although the State had taken some administrative measures to comply with the operative paragraphs of the judgment, only one of these decisions had been complied with completely. Thus, the State had not adopted the necessary or appropriate actions to comply with most of the obligations emanating from the judgment. Hence, the Commission requested the Court to require the State:
 - i. To provide clarification about compliance with providing a place for the final burial of the son of María Teresa Jesús Pérez;
 - ii. To comply fully with its obligation to provide medical and psychological treatment, especially and promptly to the victims who, being deprived of their liberty or without financial resources, require medical care owing to the seriousness of their ailments;
 - iii. To submit information to help determine whether it has complied with its obligation to create a program of special education program and a vocational program;
 - iv. To comply with its obligation to pay compensation, costs and expenses, as well as with regard to the interest on arrears to be paid to the victim, owing to the time that has elapsed without the corresponding payment having been made. Lastly, it requested that the State should be required to provide complete information on the measures adopted to safeguard the life, integrity and security of Dirma Montserrat Peña, Pedro Iván Peña and Raúl Esteban Portillo. In view of the foregoing, it requested that a time limited be established for the State to report on effective compliance measures, and that the Court continue to monitor compliance with judgment with regard to all the obligations that remain pending.

9. The brief of June 7, 2006, in which Eduardo Vera, one of the victims, through Raquel Talavera, representative of the victims, submitted a brief in which he reported on "the situation of those who were and [allegedly continue] to be victims of the State, [...] which [allegedly] is not complying with the judgment delivered by the Court." In addition, he requested that he "should be provided with provisional measures to protect [his] life and physical integrity because he had sent [this] communication."

10. The note of the Secretariat of June 27, 2006, in which it informed the parties that the preceding brief had been submitted to the consideration of the Court in plenary session during its twenty-ninth special session held in San Salvador, El Salvador. On the instructions of the Court, it advised that the Court had taken note of Mr. Vera's statement with regard to compliance with the respective judgment, and that this would be assessed opportunistically. Nevertheless, since his request for provisional measures was based merely on the presentation of the said brief, his situation did not constitute, *prima facie*, one of extreme gravity and urgency that could cause irreparable damage, in the terms of Article 63(2) of the Convention. Consequently, it was not admissible to order the adoption of provisional measures of protection at that time.

CONSIDERANDO:

1. That it is an inherent attribute of the jurisdictional functions of the Court to monitor compliance with its decisions.
2. That Paraguay has been a State Party to the American Convention since August 24, 1989, and accepted the compulsory jurisdiction of the Court on March 26, 1993.
3. That, Article 68(1) of the American Convention establishes 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." To this end, the State must ensure implementation of the rulings of the Court in its decisions at the domestic level.¹
4. That in view of the definitive and unappealable nature of the judgments of the Court, pursuant to Article 67 of the American Convention, they should be complied with promptly and fully by the State.
5. That the obligation to comply with the decisions in 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 fulfill 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 treaty.² The treaty obligations of the States Parties are binding for all the powers and organs of the State.
6. That the States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle is applicable with regard not only to the substantive

¹ Cf. *the case of the Constitutional Court. Compliance with judgment*. Order of the Inter-American Court of Human Rights of February 7, 2006, third considering paragraph; *the case of the 19 Tradesmen. Compliance with judgment*. Order of the Inter-American Court of Human Rights of February 2, 2006, third considering paragraph, and *the case of Ricardo Canese. Compliance with judgment*. Order of the Inter-American Court of Human Rights of February 2, 2006, third considering paragraph.

² Cf. *the case of the Constitutional Court. Compliance with judgment*, *supra* note 1, fifth considering paragraph; *the case of the 19 Tradesmen. Compliance with judgment*, *supra* note 1, fifth considering paragraph, and *the case of Ricardo Canese. Compliance with judgment*, *supra* note 1, fifth considering paragraph.

norms of human rights treaties, but also to the procedural norms, such as those referring to compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the guarantee protected is truly practical and effective, bearing in mind the special nature of human rights treaties.³

7. That, in view of the above, Paraguay must adopt all necessary measures to comply effectively with the decisions of the Court in the judgment on merits, reparations and costs of September 2, 2004, as well as in this order on the status of compliance with the judgment. This obligation includes the State's obligation to report on the measures adopted to comply with the decisions of the Court in that judgment. The prompt observance of the State's obligation to inform the Court about how it is complying with each aspect ordered by the latter is essential for assessing the status of compliance in the case.

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8. That, when monitoring full compliance with the judgment on preliminary objections, merits and reparations in this case, and having examined the information provided by the State, the Inter-American Commission and the representatives, the Court has verified that the State has complied with publishing the pertinent parts of the judgment in the official gazette and in one of the newspapers with the highest circulation in the country, in the terms stipulated (*supra* Having seen paragraphs 1, 4, 5, 7 and 8).

9. That, although the State reported that it had complied with providing a place in the *Cementerio del Este* for the remains of the victim, Mario del Pilar Álvarez Pérez, the Court has no evidence that this measure has been executed. The Court is extremely concerned because, despite the feasibility and relative simplicity of executing this reparation, which, owing to its importance, should have been complied with within 15 days, the Court has not been provided with any information on the effective implementation of this measure. Consequently, it is essential that the State provide detailed information and forward documentation that clarifies the status of compliance with this reparation.

10. That, although the representatives and the Commission agree that the State has emphasized its interest in organizing a public act to acknowledge international responsibility, this reparation has not been executed more than a year after the time allotted to comply with it expired. Moreover, even though the State indicated that it had begun setting up a committee to elaborate a State policy concerning children in conflict with the law, this reparation should have been complied with within six months of notification of the judgment. Furthermore, although some progress has been made, it is clear that this has only been of a formal nature, through a series of administrative actions, which have not translated into the concrete execution of this obligation. The Court considers it extremely important that Paraguay elaborate the public policies indicated in paragraphs 316 and 317 of the judgment of September 2,

³ Cf. *the case of the Constitutional Court. Compliance with judgment*, *supra* note 1, sixth considering paragraph; *the case of the 19 Tradesmen. Compliance with judgment*, *supra* note 1, sixth considering paragraph, and *the case of Ricardo Canese. Compliance with judgment*, *supra* note 1, sixth considering paragraph. Also, *cf., inter alia, the case of YATAMA*. Judgment of June 23, 2005. Series C No. 127, para. 170; *the case of the Yakyé Axa Indigenous Community*. Judgment of June 17, 2005. Series C No. 125, para. 101; and *the case of the Serrano Cruz Sisters*. Judgment of March 1, 2005. Series C No. 120, para. 64.

2004, since they are of fundamental importance for the non-repetition of the facts, and that it provide detailed information on compliance with this reparation.

11. That, although the State authorities have issued administrative acts and resolutions in relation to providing psychological treatment to all the former interns of the Institute between August 14, 1996, and July 25, 2001, medical and/or psychological treatment to the former interns injured in the fires, and psychological treatment to the next of kin of the interns who died or were injured, there is no information about the implementation of these measures as regards their continuity, the effectiveness of the treatment, and the number and names of the beneficiaries, or with regard to the reports of the "Ad hoc Committee for Physical and Psychological Evaluation and Monitoring" on execution of this aspect that is pending compliance. Moreover, the Court is concerned about the representatives' report on the current health conditions and the situation of some of the victims who remain detained. It is essential that the measures adopted are reflected in State reports that describe the mechanisms, actions and objectives determined by the State in function of the particular needs of the beneficiaries of this reparation, so that specific meaning and continuity is given to this measures and so that the Court can monitor the implementation of this form of reparation adequately and effectively.

12. That, although the State has provided information on the creation of a working group, which was already functioning, in order to comply with the obligation to provide vocational assistance and a program of special education for the former interns of the Institute, it has not supplied any information on the specific work proposals, content and duration, or the names of the beneficiaries who are already receiving or who will receive assistance. The Court considers that most of the progress has been administrative in nature, without tangible benefits for the victims.

13. That, even though the State has provided information on several administrative measures it has taken in order to comply with payment of the compensation owed to the victims and reimbursement of costs and expenses to their representatives, almost two years after the judgment was delivered the payment of the amounts stipulated has not been made.

14. That the Court deems it essential that the State adopt all necessary measures to comply promptly with the reparations ordered by the Court in the judgment, and submit current, detailed information on this compliance.

15. That the Court will again monitor the general status of compliance with its judgment of September 2, 2004, and this Order, when it has received pertinent information on the aspects pending compliance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTSS,

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

DECLARES:

1. That, as indicated in the eighth considering paragraph of this Order, the State has complied partially with the provisions of the tenth operative paragraph of the judgment on preliminary objections, merits and reparations delivered by the Court on September 2, 2004, since it has complied with publishing the pertinent parts of the judgment in the official gazette and in a newspaper with extensive national circulation.

2. That it will continue the procedure of monitoring compliance with the aspects pending full compliance. They are:

- a) The organization, in consultation with civil society, of a public act to acknowledge international responsibility at which it announces the elaboration of a short, medium and long-term State policy concerning children in conflict with the law (eleventh operative paragraph);
- b) The psychological treatment for all the former interns of the Institute between August 14, 1996, and July 25, 2001; medical and/or psychological treatment for the former interns injured in the fires, and psychological treatment for the next of kin of the interns who died or were injured (twelfth operative paragraph);
- c) Vocational assistance and a program of special education for the former interns of the Institute between August 14, 1996, and July 25, 2001 (thirteenth operative paragraph);
- d) Providing a place for the burial of Mario del Pilar Álvarez Pérez, son of María Teresa de Jesús Pérez, in a cemetery near her residence (fourteenth operative paragraph);
- e) The safeguard of the life, integrity and security of the persons who testified and of their next of kin (fifteenth operative paragraph);
- f) Payment of the compensation for pecuniary and non-pecuniary damage to the victims and their next of kin (sixteenth and seventeenth operative paragraphs), and
- g) Reimbursement of expenses and costs to the representatives of the victims (eighteenth operative paragraph).

AND DECIDES:

1. To require the State to adopt all necessary measures to comply effectively and promptly with the reparations ordered by the Court in the judgment on merits, reparations and costs of September 2, 2004, in accordance with the provisions of Article 68(1) of the American Convention on Human Rights.

2. To request the State to submit to the Inter-American Court of Human Rights, by September 11, 2006, at the latest, a report indicating all the measures adopted to comply with the reparations ordered by the Court that remain pending

compliance, in accordance with the terms of the considering paragraphs of this Order.

3. To request the representatives of the victims and the Inter-American Commission to submit their observations on the report of the State mentioned in the preceding operative paragraph within four and six weeks, respectively, of receiving it.

4. To continue monitoring the aspects pending compliance of the judgment on merits, reparations and costs of September 2, 2004.

5. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission, and the representatives of the victims

Sergio García Ramírez
President

Alirio Abreu Burelli

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