

**Order of the
Inter-American Court of Human Rights
of November 28, 2007
Case of the Plan de Sánchez Massacre v. Guatemala
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on Reparations and Costs (hereinafter "the Judgment") rendered by the Inter-American Court of Human Rights (hereinafter "the Court", "the Inter-American Court" or "the Tribunal") on November 19, 2004, in which the Court:

Decide[d,]

Unanimously that:

1. The State shall effectively investigate the facts of Case of the *Plan de Sánchez Massacre v. Guatemala* in order to identify, prosecute and punish the perpetrators and masterminds, as set forth in paragraphs 94 to 99 of [the] Judgment.

2. The State shall organize a public ceremony to acknowledge its responsibility for the events that occurred in this case and to make reparation to its victims. The ceremony must be carried out in the village of Plan de Sánchez, where the massacre occurred, in the presence of senior State authorities and, particularly, of the members of the Plan de Sánchez village and the other victims in this case, inhabitants of the villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac; and the leaders of these affected communities must participate in this ceremony. The State shall provide the necessary means to facilitate the presence of these people in the ceremony. Furthermore, the State shall conduct the ceremony in both Spanish and Maya-Achí and publicize it in the media, as set forth in paragraphs 100 and 117 of [the] Judgment.

3. During such ceremony, the State shall publicly honor the memory of those executed in the Plan de Sánchez Massacre carried out by State agents on July 18, 1982, as set forth in paragraphs 101 and 117 of [the] Judgment.

4. The State shall translate the American Convention on Human Rights, if not already done, the judgment on the merits delivered by the Court on April 29, 2004 and [the] Judgment into Maya-Achí. The State shall also provide the necessary resources to disseminate said documents in the Municipality of Rabinal and deliver them to the victims in this case, as set forth in paragraphs 102 and 117 of [the] Judgment.

5. The State shall publish, at least once within one year following notice of [the] Judgment, in the Official Gazette and in another daily newspaper with national circulation, in Spanish and in Maya-Achí, the section entitled Proven Facts in Chapter V and the first to fourth operative paragraphs of the judgment on the merits delivered by the Court on April 29, 2004, as well as Chapter VII, entitled Proven Facts (without the footnotes), the first declaratory paragraph and the first to ninth operative paragraphs of [the] Judgment, as set forth in paragraphs 103 and 117.

6. The State shall pay the amount specified in paragraph 104 of [the] Judgment to maintain and improve the infrastructure of the chapel in which the victims pay homage to those executed in the Plan de Sánchez Massacre, as set forth in paragraphs 104 and 117

[thereof].

7. The State shall provide, free of charge, through its specialized health care facilities, the medical treatment required by the victims, including, *inter alia*, any necessary medication. The State shall also create a specialized program of psychological and psychiatric treatment, which shall also be provided free of charge, as set forth in paragraphs 106 to 108 and 117 of [the] Judgment.

8. The State shall provide adequate housing to the surviving victims who reside in the village of Plan de Sánchez and require the same, as set forth in paragraphs 105 and 117 of [the] Judgment.

9. The State shall implement the following programs in the communities of Plan de Sánchez, Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac: a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road systems between said communities and the municipal capital of Rabinal; c) sewage system and potable water supply; d) supply of teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling in these communities, and e) the establishment of a health care center in the village of Plan de Sánchez with proper personnel and conditions, and also training for the personnel of the Rabinal Municipal Health Care Center so that they may provide medical and psychological care to those who have been affected and who require this kind of treatment, as set forth in paragraphs 109 to 111 and 117 of [the] Judgment.

10. The State shall make the payments for pecuniary damage to each of the victims in this case, as set forth in paragraphs 72 to 76 and 117 of [the] Judgment.

11. The State shall make the payments for non-pecuniary damage to each of the victims in this case, as set forth in paragraphs 80 to 89 and 117 of [the] Judgment.

12. The State shall make the payment for costs and expenses incurred in the international proceedings to the *Centro para la Acción Legal en Derechos Humanos* (Center for Legal Action on Human Rights, CALDH), as set forth in paragraphs 116, 117 and 119 of [the] Judgment.

13. The State shall pay the total amount of the compensation ordered for pecuniary damage, non pecuniary damage, and costs and expenses specified in [the] Judgment, which shall not be subject to any tax, levy, or charge, now existing or hereafter imposed.

14. The State shall comply with the measures of reparation and reimbursement of expenses ordered in [the] Judgment within one year following notice thereof, unless otherwise specified.

15. Should the State fall into arrears, interest shall be paid on any amount due at the Guatemalan bank default interest rate, as set forth in paragraph 123 of [the] Judgment.

16. The Court shall monitor full compliance with [the] Judgment and the instant case shall be closed once the State has fully complied with the provisions laid out [t]herein. Within one year of the date of notice of [the] Judgment, the State shall furnish the Court with a report on the measures adopted in compliance therewith, as set forth in paragraph 124 of [the] Judgment.

2. The reports on the progress towards compliance with the Judgment submitted by the State of Guatemala (hereinafter "the State" or "Guatemala") on June 29, 2005; October 3, 2005; November 14, 2005; December 14, 2005, December 19, 2005; January 13, 2006; January 24, 2006; January 25, 2006; February 6, 2006; April 26, 2006; January 30, 2007; February 19, 2007; September 6, 2007; August 14, 2007; and November 6, 7, and 21, 2007.

3. The comments on the State compliance reports submitted by the representatives of the victims (hereinafter "the representatives") on July 7, 2005;

August 3, 2005; November 4, 7, 10, and 28, 2005; December 26, 2005; January 24, 2006; March 16, 2006; December 8, 2006; April 11, 2007; October 5 and 8, 2007; November 22 and 26, 2007.

4 The comments on the State compliance reports submitted by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") on August 19, 2005; November 22, 2005; February 2, 2006; April 4, 2006; May 2, 2007; October 15, 2007; November 27, 2007.

CONSIDERING:

1. That monitoring compliance with its decisions is a power inherent in the judicial functions of the Court.

2. That Guatemala has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since May 25, 1978 and that it accepted the jurisdiction of the Court on March 9, 1987.

3. That the obligation to comply with the judgments of the Court conforms to a basic principle of the Law of International Responsibility of States, upheld by international case law, under which States are required to comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by this Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States may not invoke the provisions of its internal law to escape their pre-established international responsibility.¹ The treaty obligations of States Parties are binding on all State powers and organs.

4. That the States Parties to the Convention are required to guarantee compliance with the provisions thereof and their effects (*effet utile*) at the domestic level. This principle is applicable not only with regard to the substantive provisions of human rights treaties (*i.e.* those dealing with the protected rights) but also with regard to procedural rules, such as those concerning compliance with the decisions of the Court. These obligations are to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.²

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¹ Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Arts. 1 and 2 of the American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of Castillo-Petruzzi et al.* Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 1999. Series C No. 59, Considering clause No. 4; *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of February 2, 2007, Considering clause No. 3; and *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 12, 2007, Considering clause No. 6.

² Cf. *Case of Ivcher-Bronstein v. Peru*. Competence. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 4; and *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 7.

5. That, with respect to the first operative paragraph of the Judgment (*supra* Having Seen clause No. 1), the State reported that the necessary requests to the Attorney General's Office had been made to initiate the criminal prosecution "[...] of the facts described in the order of the [...] Court." The State added that, to that end, a justice promotion committee had been created, which was responsible for following up on the cases pending before the Court and the Commission, in which "[...] the international responsibility of the State had been determined [...] in relation to the duty to investigate and punish those responsible for the human rights violations" (*supra* Having Seen clause No. 2).

6. That the representatives emphasized the importance of the investigation of the Plan de Sánchez Massacre insofar as it would be, among other things, "[...] an important step toward national reconciliation with the Mayan people [...] [and toward] tackling racism and discrimination." However, two months following notice of the Judgment, the prosecutor's office in charge of the investigation of the Plan de Sánchez Massacre, among other cases, had been dissolved. Subsequently, the representatives informed that the prosecutor's office that had been created did not have the respective investigation file and that the personnel was not "[...] trained to conduct an investigation of this magnitude." They added that they were awaiting information on "[...] the progress made and the work [...] done by the [p]romotion [c]ommittee as well as on the schedule of the meetings between the prosecutors in charge of the case, the victims and their representatives. Furthermore, they stressed the importance of not conducting a separate investigation of the case "[...] independent of the proceeding pending before domestic courts; rather [...] compliance with the [J]udgment [should] strengthen [...] said proceedings." In addition, they stated that there was no investigation plan and that the only step taken was the taking of supplemental witness statements. Finally, they stated that the investigation was one of the most important reasons for bringing the case before the Inter-American System, but that so far no measures had been taken which would suggest that a search for those responsible for the massacre was in place (*supra* Having Seen clause No. 3).

7. That the Commission stated that it appreciated the efforts made by the State to have the Attorney General's Office initiate the investigation, as well as the creation of a justice promotion committee within the judicial branch to follow up on the cases that "[...] are pending before the Inter-American Commission and the Court" and requested that the Court require the State to provide information as to whether the Attorney General's Office was conducting an investigation into the events that took place in the village of Plan de Sánchez through some specialized unit. Furthermore, the Commission expressed "concern over the fact that the State fail[ed] to provide information indicating whether the Attorney General's Office [wa]s conducting the investigation of the facts surrounding the [m]assacre [...]" In addition, it noted that the State had failed to provide information regarding the measures taken by the Attorney General's Office to investigate, prosecute and punish the masterminds and perpetrators of the massacre (*supra* Having Seen clause No. 4).

8. That, based on the information submitted by the parties, the Court concludes that the State has failed to comply with the first operative paragraph of the Judgment. It is therefore essential to call upon the State to investigate, prosecute, and punish the perpetrators and masterminds of the Plan de Sánchez Massacre (*supra* Having Seen clause No. 1).

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9. That, in relation to the second and third operative paragraphs of the Judgment (*supra* Having Seen clause No. 1), the State reported that, on July 18, 2005, at a public ceremony held in the village of Plan de Sánchez, the Vice President of Guatemala acknowledged the international responsibility of the State and apologized on its behalf for the Plan de Sánchez Massacre (hereinafter “the massacre”). The State added that it was pleased with having complied with the obligations set out in the aforesaid operative paragraphs (*supra* Having Seen clause No. 2).

10. That the representatives stated that said public ceremony was held on the 23rd anniversary of the Plan de Sánchez Massacre and was attended by numerous representatives of the affected communities, some of whom spoke at the ceremony regarding the need to pursue the investigation and subsequent prosecution and punishment of those responsible for the massacre (*supra* Having Seen clause No. 3).

11. That the Commission indicated that “[...] Commissioner Susana Villarán and the attorney of the [E]xecutive [S]ecretariat, Isabel Madariaga, [...]” attended the ceremony, and that it appreciated “[...] the public acknowledgment of the State’s responsibility[, as well as] the apology [...]” offered by the Vice President of Guatemala (*supra* Having Seen clause No. 4).

12. That, based on the foregoing, the Court finds that the State has complied with the second and third operative paragraphs of the Judgment delivered in the instant case (*supra* Having Seen clause No. 1).

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13. That, in relation to fourth operative paragraph (*supra* Having Seen clause No. 1), the State reported that the American Convention, the Judgment on the Merits and the Judgment on Reparations and Costs rendered in the instant case had been translated into Maya-Achí, in collaboration with the Academy of Mayan Languages. The State added that, given the widespread illiteracy of the residents of the area, the production of audio copies of said documents was under consideration (*supra* Having Seen clause No. 2).

14. That the representatives stated that the State had only partially complied with the fourth operative paragraph, given that the obligation to deliver said translations to the victims and to disseminate this material remained unfulfilled. They stressed the importance of disseminating the American Convention and the aforesaid Judgments through audio means and print documents. Subsequently, they added that, even though versions of the translation were already available, the obligation to disseminate said documents in the municipality of Rabinal and to deliver the same to the victims within one year, as specified in the Judgment, has not been complied with. Finally, they stated that they had proposed a series of compliance methods to the State with respect to the obligation to disseminate the documents (*supra* Having Seen clause No. 3).

15. That the Commission stated that it appreciated the efforts made by the State to comply with the aforesaid obligation and recognized the difficulty in translating the documents mentioned above. Furthermore, the Commission expressed its satisfaction with the completion of the translation phase and considered it important to ask the victims about the most effective means of reproducing and disseminating the documents (*supra* Having Seen clause No. 4).

16. That the Court notes that, even though the State has already translated the American Convention and the Judgments on the Merits and on Reparations and Costs rendered in this case into Maya-Achí, the obligation to disseminate said documents in Maya-Achí throughout the municipality of Rabinal and to deliver the same to the victims, as laid out in the fourth operative paragraph, remains unfulfilled (*supra* Having Seen clause No. 1).

17. That, based on the foregoing, the Court finds that the State has partially complied with the fourth operative paragraph of the Judgment delivered in the instant case (*supra* Having Seen clause No. 1).

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18. That, in relation to the fifth operative paragraph (*supra* Having Seen clause No. 1), the State informed that it had published, in Spanish, the section entitled Proven Facts in Chapter V and the first to fourth operative paragraphs of the Judgment on the Merits delivered by the Court on April 29, 2004, as well as Chapter VII, entitled Proven Facts, the first declaratory paragraph and the first to ninth operative paragraphs of the Judgment in the Official Gazette. However, the State admitted that it had not yet complied with the obligation to publish the aforesaid sections in Spanish in a newspaper with national circulation, and in Maya-Achí in the Official Gazette and in a newspaper with national circulation (*supra* Having Seen clause No. 2).

19. That the representatives pointed out that the State was in partial compliance with the aforesaid operative paragraph, given that it had failed to comply with all the publications ordered by the Court and that said publications could be effected immediately. Subsequently, the representatives noted that the aforesaid operative paragraph should have been complied with within one year following notice of the Judgment and that the State had only published the Judgment in Spanish, although the Achí translation was already available (*supra* Having Seen clause No. 3).

20. That the Commission expressed confidence that the State could overcome the obstacles that prevented it from complying with said operative paragraph. Taking into account the statements made by the State and by the representatives, the Commission recognized the measures adopted in order to comply with said operative paragraph and pointed out that "[...] the State itself indicate[d] that it [wa]s not in compliance with this obligation [...and] note[d] that, once the translation is ready it would be important to complete the remaining steps required to achieve full compliance in that regard [...]" (*supra* Having Seen clause No. 4).

21. That, based on the foregoing, the Court finds that the State has partially complied with the fifth operative paragraph of the Judgment delivered in the instant case (*supra* Having Seen clause No. 1).

22. That the State must publish the sections mentioned above in Spanish, in a newspaper with national circulation, and in Maya-Achí, in the Official Gazette and in a newspaper with national circulation (*supra* Having Seen clause No. 1).

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23. That the State informed of the availability of 66.66% of the funds necessary to comply with the sixth operative paragraph ordering the State to maintain and improve the infrastructure of the memorial chapel (*supra* Having Seen clause No. 1). However, the State pointed out that the payment was not made because it had not been informed of the name of the persons responsible for receiving the money and implementing the project. Therefore, it requested the Court to take this matter into consideration (*supra* Having Seen clause No. 2).

24. That the representatives stated that they had already informed the State of the names of the persons in charge of the administration and improvement works planned for the chapel built in the place where the massacre occurred. Subsequently, they recognized the State's support for the creation of an association responsible for performing the improvements in the chapel and informed that only some final details remained to be addressed for the State to be able to deliver the funds to the selected persons (*supra* Having Seen clause No. 3).

25. That the Commission expressed confidence that the State would coordinate with the representatives the best way to perform the works in the chapel, without unnecessary delay, taking into account that 66.66% of the amount intended for such purposes was already available (*supra* Having Seen clause No. 4).

26. That, based on the foregoing, the Court notes that, according to the information provided by the representatives, the members of the Plan de Sánchez community decided to create an association, composed by them and the representatives, to manage the maintenance and improvement works to be performed in the chapel, for which the State provided assistance.

27. That the State must pay the amount ordered by the Court, in accordance with the sixth operative paragraph of the Judgment rendered in the instant case (*supra* Having Seen clause No. 1).

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28. That the State reported on the progress made in relation to compliance with the seventh operative paragraph (*supra* Having Seen clause No. 1), indicating that in June 2007, by means of a letter of understanding, an assessment committee had been created between the State, through the *Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos* (Presidential Human Rights Policy Coordination Commission, hereinafter "the COPREDEH") and the Ministry of Health and Social Assistance (hereinafter "the Ministry of Health"), the representatives of the Committee of Victims, the representatives of the victims, the *Centro para la Acción Legal en Derechos Humanos* (Centre for Human Rights Legal Action, hereinafter "CALDH") and the *Equipo de Estudios Comunitarios y Acción Psicosocial* (Community Studies and Psychosocial Action Team, hereinafter "ECAP"). That, among other responsibilities, such committee will provide advice and participate, together with the Ministry of Health, in making psychosocial diagnoses and drafting the health care standards and protocols regarding cases of psychosocial impairment resulting from the political violence and serious human rights violations. Such Committee will operate for five years, submit quarterly reports to the COPREDEH and be formalized by means of a ministerial decision. In addition, the State informed that on "[...] August 29, 2007, the State [...] published the "Protocol for mental health services to populations that

experienced human rights violations and political violence during the internal armed conflict." The State added that there is already a health care facility operating in the village of Plan de Sánchez, supplied with nursing staff and surgical instruments, which provides medical and psychological care on a regular basis.

29. That the representatives noted that the Ministry of Health had undertaken efforts to comply with some of the measures specified in said operative paragraph. However, they indicated that "[...] the implementation of the proposed plan had been carried out despite the fact that the Assessment Committee had not yet been created and without the direct involvement of the beneficiaries[,] which had hindered the work [...]" They also stated that, in June 2007, they signed a letter of understanding whereby the creation of the assessment committee, of which the representatives are part, was formalized. They added that a forthcoming meeting was being organized in which the indicators used to determine the work to be done with the victims would be set and that in that context they were able to "[...] prepare a proposal related to the health issue [...]" (*supra* Having Seen clause No. 3).

30. That the Commission noted that, in accordance with paragraph 108 of the Judgment, the Court ordered the State to submit, within six months, a report on the creation of a committee to assess the physical and mental condition of the victims. In addition, the Commission stated that the information provided by the State and the representatives indicated that "[...] significant efforts ha[d] been made to [comply] [...]" with said operative paragraph, but that such efforts were not enough and that they were awaiting "[...] a detailed report on the steps taken to ensure proper implementation." Furthermore, it recognized the measures adopted to provide medical and psychological treatment (*supra* Having Seen clause No. 4).

31. That the State was notified of the Judgment on December 7, 2004 and that, in accordance with it, the State was to submit a report to the Court within six months regarding the creation of a committee to assess the physical and mental condition of the victims, which would begin with an individual evaluation of the beneficiaries who requested such service, and immediately followed by the prescribed treatment. In this regard, the Court noted that, according to the information provided by the State, the Commission, and the representatives, the aforesaid committee was created two and a half years after the time specified in the Judgment.

32. That, based on the foregoing, the Court finds that the State has partially complied with its obligation to assess the physical and psychological condition of the beneficiaries requesting such evaluation; and that, on the basis of such evaluation, the State must continue to provide the relevant treatment as well as the necessary medication, free of charge.

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33. That, in relation to the eighth operative paragraph (*supra* Having Seen clause No. 1), the State reported that officers of the *Fondo Nacional para la Vivienda* (Guatemalan Housing Fund, hereinafter "the FOGUAVI") had submitted a housing project to the victims residing in the village of Plan de Sánchez. However, the State indicated that the victims were reluctant to approve the proposed project (*supra* Having Seen clause No. 2).

34. That, with respect to the aforesaid operative paragraph, the representatives stated that the "State's proposal was unclear" and that it was "[...] impossible to know the person or persons that [would be] responsible, on behalf of [...] the State, for compliance [...]". They added that they would soon submit a proposal to the State regarding the obligation to provide housing to the victims, prepared in collaboration with them so that such measure does not interfere with the customs, ways of life, and culture of the inhabitants of the village (*supra* Having Seen clause No. 3).

35. That, as regards said operative paragraph, the Commission noted that the information available in relation to specific aspects that are essential for compliance with the orders of the Court was insufficient (*supra* Having Seen clause No. 4).

36. That the Court notes that, in accordance with the aforesaid operative paragraph, the State must develop a housing program for the benefit of the surviving victims who reside in the village of Plan de Sánchez and require the same within five years following notice of the Judgment.

37. That, even though the period for compliance with said operative paragraph has not expired, the Court finds that the State has provided little information regarding the steps taken toward compliance; therefore, the Court calls upon the State to report on the progress made so as to ensure compliance with the provisions of the Judgment within the specified period (*supra* Having Seen clause No. 1).

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38. That, as regards the ninth operative paragraph (*supra* Having Seen clause No. 1), the State informed, in relation to paragraph 9(a), that the Academy of Mayan Languages, through the Achi linguistic community, was conducting a research study regarding the time necessary for the study and dissemination of the Maya-Achi culture in the affected communities. In relation to paragraph 9(b), that the Ministry of Communications informed "[...] of the significant progress [...] made in the formal project and the improvements in the road system between the [communities affected by the massacre] and the municipal capital of Rabinal [...]." In relation to paragraph 9(c), that the FOGUAVI had put forward the possibility of "[...] undertaking the sewage and potable water supply" together with the housing project. In relation to paragraph 9(d), the State has failed to provide specific information regarding the supply of teaching personnel trained in intercultural and bilingual teaching, as set forth in the Judgment. In relation to paragraph 9(e), the State noted that, until 2005, the health care center located in the village of Plan de Sánchez "[...] was classified as a convergence center, [and that] it is currently an enhanced health care facility[,] given that it provides medical and psychological care[. ...] A nursing assistant was appointed, [who] provides basic health care from 8 am to 4 pm, Monday to Friday [,...] the doctor sees patients twice a month [..., two] psychologists provide their services every Monday [and] the facilities were painted[... .] The tap water and electrical installation remain to be completed. [...A] medical-surgical equipment was provided on loan [and] a plan for the implementation of psychosocial relief efforts was prepared" (*supra* Having Seen clause No. 2).

39. That, in relation to the aforesaid operative paragraph, the representatives noted that "[...] the State has not provided [...] much information about each one of the aspects to be complied with" and requested that the Court require the State to provide information on the housing program; the study and dissemination of the Maya-

Achí culture; maintenance and improvement of the road system; sewage system and potable water supply; supply of teaching personnel trained in intercultural teaching and the establishment of a health care center. Furthermore, they pointed out that it was important to have clear information on the progress made in relation to the aforesaid operative paragraph given that the forthcoming change of administration will in turn generate changes within government bodies and agencies. In addition, the representatives stated that they had requested the State to provide information about the government bodies and persons responsible for compliance with this operative paragraph, but did not receive any answer (*supra* Having Seen clause No. 3).

40. That, in relation to paragraph 9(e) of the ninth operative paragraph, the Commission noted that, based on the information provided by the State and the representatives "[...] significant efforts [had] been made to ensure compliance therewith," but they were not enough. The Commission recognized the progress made in relation to the measures adopted to comply with the obligation to provide medical and psychological care and emphasized "[...] the need to ensure prompt and effective implementation of the reparation measures ordered by the Court and that it [was] awaiting the relevant information regarding effective compliance with all the aspects related to the reparations ordered [...]" by the Court.

41. The Court notes that, in accordance with the aforesaid operative paragraph, the State must develop cultural, infrastructure, educational and health programs within a period of five years following notice of the Judgment, and that the such period has not expired (*supra* Having Seen clause No. 1).

42. That the Court appreciates the progress made in connection with the health program. In addition, the Court finds that, even though the period for compliance has not expired yet, the State has not provided much information regarding compliance with the following: a) dissemination of the Maya-Achí culture in the communities affected by the massacre; b) maintenance and improvement of the road system between said communities and the municipal capital; c) sewage system and potable water supply; and d) supply of teaching personnel trained in intercultural and bilingual teaching.

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43. That, in relation to the tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth operative paragraphs (*supra* Having Seen clause No. 1), the State informed that due to the national emergency caused by the Tropical Storm "Stan", on January 9, 2006, it was agreed with the victims and their representatives that the State would pay the amount determined by the Court in "[...] three consecutive payments to be made in December 2005, 2006 and 2007 [...] respectively." The State also informed that it had provided assistance to the beneficiaries, in their own language, to help them open the necessary bank accounts. In addition, it reported that some difficulties were encountered during such process, such as direct beneficiaries who had died or were out of the country, or whose names had been incorrectly recorded. The State also informed that the first payment of 33.33% of the amount specified in the Judgment began to be effected on February 1, 2006 and that it had made the relevant deposits to 227 victims' accounts. The State added that "given that several persons had some problems with their identification cards, [...] they initiated the process to

obtain their identification cards [and]; in some cases, the persons identified in the [J]udgment as beneficiaries had died and so their family had to [...]” commence the relevant succession proceedings for determination of heirs. As a result, they did not receive the first payment “[...] until the second payment was made.” In addition, the State pointed out that “[...] at the request of the Court [...], the complete list of 273 beneficiaries [wa]s submitted, in which the 269 beneficiaries mentioned in the State report of October 31, 2007 [were] included, including 7 payments made as a result of intestacy proceedings plus the payments made subsequently [...].” Finally, Guatemala reported that it had made the first payment of 33.33% of the amount specified in the Judgment to the representatives for costs and expenses “[...] with the exception of the interest thereon [...]” given that they had waived such payment (*supra* Having Seen clause No. 2).

44. That the State informed that, on December 18, 2006, the second payment was made, [...] amounting to 33.33% of the total amount ordered by the Court to 252 [...] surviving victims [...] as well as accrued interest thereon [...].” On February, 2007, the State remitted two records including the persons who received the payment on December 18, 2006 and five additional records of the payments made on February 2, 2007 pursuant to the relevant succession proceedings, which total 259 records. In addition, the State made the second payment of 33.33% of the amount specified in the Judgment for costs and expenses to the representatives (*supra* Having Seen clause No. 2).

45. That the representatives indicated that “as established by the State, Guatemala has made the second payment amounting to 33.33% of the total amount of the compensation awarded, [as well as] accrued interest thereon, in accordance with the information provided by the State itself.” Furthermore, the representatives stated that they had received the second payment of costs and expenses. Finally, they recognized the efforts made by the State to comply with the aforesaid operative paragraphs. However, they stressed the need for systematic information “[...] indicating the name of the persons who have received the first and second payment[s] (including interest) and the supporting [r]ecord [n]umber” (*supra* Having Seen clause No. 3).

46. That, in relation to the compensation and the reimbursement of costs and expenses, the Commission indicated that it seemed that an agreement had been reached for the State to make such payment in three installments. The Commission added that “[...] the representatives confirmed that they received the payment made [...].” In addition, it “[...] appreciate[d] the State’s compliance with the agreed-upon payments and reiterate[d] its satisfaction with the efforts made by Guatemala [...]” to provide assistance to the victims. The Commission also noted that the State had not yet submitted detailed information regarding the payments to direct victims who had died and to those who are in the country but do not have representation. It also stressed the need to ensure prompt and effective implementation of the reparation measures ordered by the Court. In addition, the Commission emphasized the importance of the measures adopted by the State to ensure compliance with said operative paragraphs and noted that “[...] for the purpose of monitoring compliance, the State should [...] provide systematic information regarding the beneficiaries of the payments made up to [that] point [...] as well as information about the steps undertaken to ensure that the beneficiaries of the compensation awarded are identified, located, and effectively receive the reparations to which they are entitled. Finally, it pointed out that information must be provided concerning whether the State has deposited the relevant amount with a banking institution in order to pay the beneficiaries who have not yet claimed their compensation, in accordance with the

provisions set out in paragraph 121 of the Judgment (*supra* Having Seen clause No. 4).

47. That, as regards the compensation specified in the Judgment, the Court notes that the parties agreed for it to be paid in three installments. The Court also notes the difficulties encountered in locating victims who may be in or out of Guatemala and who do not have legal representation; identifying the persons listed as victims in the Judgment, whose names had been incorrectly recorded, as well as the difficulties arising from the fact that some of the victims had died and, as a result, succession proceedings had to be instituted. In this regard, the Court appreciates the efforts made by the State to overcome such obstacles. Furthermore, the Court takes into account the following clarifications made by the State in relation to the State's failure to remit: a) the copies of the records of the second payment made to Rosario Galeano, Juan Galeano, Albino Cajbón, Hilario Galeano, Catalina Galeano, and Silvestre Galeano; in this regard, the State explained that the second payment was not made to the aforesaid victims given that the first payment was received by other individuals "who [were] not listed as beneficiaries in the [J]udgment [...];" therefore, the State was awaiting a meeting with the two families and the representatives in order to resolve this conflict, the outcome of which will be notified to the Court in due time; b) the copy of the record of the second payment made to Lucía Raxcacó Sesam; in relation to which the State explained that said person had died and that it was awaiting the conclusion of the succession proceedings to "[...] be able to effect the second payment [...];" c) the copy of the record of the first payment to María Martínez García or Maruca Martínez García insofar as such payment had not been made to said person, in her representative capacity as mother of Zoila, Pedro and Adolfo or Rodolfo, Soto Martínez.

48. That, notwithstanding the foregoing clarifications, according to the information provided by the State and the payment summary attached to this Order, this Court notes the following irregularities in relation to 58 persons: a) twenty-six victims have not received any payment;³ b) four victims have only received the second payment, amounting to 33.33 % of the compensation specified in the Judgment, as evidenced by the records;⁴ c) it should be noted that there are 14 persons with similar names in the Judgment, 7 of whom have received both payments, amounting to 66.66% of the compensation specified in the Judgment, as evidenced by the records;⁵ therefore, it would appear that seven persons did not receive any payment;⁶ and d) it should be noted that there are seven persons whose names are listed twice in the Judgment,⁷ given that it is not possible to determine whether there are fourteen different victims

³ These are as follows: Gumerindo Orellana Morales, Emiliana López Juárez, Julia Manuel, Emiliana Grave López, Héctor Manuel García Mejicanos, Julio Tecú Chajaj, José León Alvarado, Ángela Juárez Chen, Paulina Guzmán, Salvador Manuel Jerónimo, Florencia Cajbón Jerónimo, Lucas Juárez Ampérez, Valeria Grave Cajbón, Emiliano Cajbón Grave, Petronila Tecú Chajaj, María Aurelia Jerónimo Corazón, Francisco Rojas Ic, Salomé Ic Rojas, Valentina Grave Tecú, Ramón Rojas, Salomé Rojas, Virgilio Rojas, Jerónimo Jerónimo Ixpatá, María Juárez Manuel, Juana Juárez Grave and Cecilio Tecú Chajaj.

⁴ These are as follows: Gregoria Tecú Chajaj, Pedro Soto Martínez, Zoila Soto Martínez, and Rodolfo or Adolfo Soto Martínez.

⁵ These are as follows: Alejandro Grave Oxla, Eugenia Ivoy, Juan Cajbón Corazón, Pablo Grave Cajbón, Celestino Morales Pérez, María Modesta Hernández Ic and Lázaro Alvarado Raxcacó.

⁶ These are as follows: Alejandro Grave, Eugenia Morales Iboy, Juan Cajbón, Pablo Grave Jerónimo, Celestino Morales García, Modesta Hernández and Lázaro Alvarado Manuel.

⁷ There are seven persons whose names are: Plácido Jerónimo Grave, Juan Álvarez Pérez, Guillermo Toj Manuel, Justina Sánchez, Humberto Rojas, Domingo Ic Rojas and Rosa Raxcacó Juárez, who have received the payments and another seven: Plácido Jerónimo Grave, Juan Álvarez Pérez, Guillermo Toj Manuel, Justina Sánchez, Humberto Rojas, Domingo Ic Rojas and Rosa Raxcacó Juárez, who have received no payment whatsoever.

or seven victims whose names appear twice on the Judgment. Only seven of them have received the two payments amounting to 66.66% of the compensation amount specified in the Judgment. Therefore, it could not be determined whether all of them have received or not the respective payments.

49. That this Court deems it necessary that the State submit a detailed report regarding the steps currently being taken to resolve the problems related to the identification and location of and payment to the persons involved in the situations described in Considering clauses No. 47(a), (b), and (c) and 48 (a), (b), (c) and (d) respectively. Especially, the State must provide information about the measures adopted to ensure payment of the compensation specified in the Judgment to the victims, until such conditions are remedied and, if appropriate, indicate whether an account or certificate of deposit has been secured in a banking institution in favor of those who have not received payment of the compensation ordered (*Cf. paras. 67, 76, 89 and 121 of the Judgment on Reparations and Costs of November 19, 2004 delivered by the Court in the instant case*).

50. That the Court considers that all necessary measures to resolve the aforementioned problems should be expedited; for such purposes, it is necessary that the victims and their representatives cooperate in providing the information that may facilitate proper payment of the pertinent compensation amount to those who have not yet received it (*supra* Having Seen clause No. 1). In addition, the representatives and the Commission must provide details regarding the particular situation of each one of the persons named above, in accordance with Considering clauses No. 47 and 48 of this Order.

51. That, as regards the first and second payments made, according to the information provided by the State and the comments submitted by the representatives and the Commission, the Court finds that there is no dispute over the fact that the State has made the first payment of 33.33% of the compensation amount specified in the Judgment, in relation to which 273 payment records were remitted; and that the State has made the second payment of 33.33% of the compensation amount specified in the Judgment, in relation to which 259 payment records were remitted. Such payments were made to the victims, their legal representatives or assigns, as specified in the payment summary attached to this Order. Therefore, the Court finds that the State has complied with the payment of 66.66% of the compensation awarded to the persons identified in the Judgment, with the exception of those victims that are involved in the situations described in Considering clause No. 47 and 48 of this Order and in the attached payment summary, and who have not received payment, in whole or in part, of the compensation awarded by the Court.

52. That, according to the information provided by the State and the comments made by the representatives, this Court finds that the State has complied with the first and second payments amounting to 66.66% of the amount awarded by the Court to the representatives for costs and expenses.

53. That the State must pay the total amount of compensation for pecuniary and non-pecuniary damage to the victims as well as the unpaid balance of the amount awarded for costs and expenses to the representatives, in accordance with the tenth, eleventh, twelfth, thirteenth, and fifteenth operative paragraphs of the Judgment rendered in this case (*supra* Having Seen clause No. 1).

54. That, based on the foregoing paragraphs, the Court finds that the State has partially complied with the tenth, eleventh, twelfth, and thirteenth operative paragraphs of the Judgment delivered in the instant case (*supra* Having Seen clause No. 1).

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55. That the Court takes into account the information provided by the State in connection with the medical, psychological and psychiatric care and the supply of medication (*supra* Considering clauses No. 28 and 38). However, the Court considers that the State has provided insufficient information regarding the measures ordered by the Court in its Judgment, described in (b) and (c) below, the period for compliance with which has not yet expired:

- a) progress toward compliance with the obligation to provide free medical, psychological, and psychiatric care and any necessary medication (*seventh operative paragraph*);
- b) progress toward compliance with the obligation to provide adequate housing to the surviving victims who reside in the village of Plan de Sánchez and who require the same (*eighth operative paragraph*); and
- c) progress toward compliance with the obligation to implement the following programs in the communities affected by the massacre: a) study and dissemination of the Maya-Achí culture through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road system between said communities and the municipal capital of Rabinal; c) sewage system and potable water supply; d) supply of teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling (*ninth operative paragraph*).

Therefore, the Court calls upon the State to take such measures as may be necessary to comply with the obligations within the period specified in the Judgment and to provide information regarding the same to this Court.

56. That, in monitoring full compliance with the Judgment rendered in the instant case, and after analyzing the information provided by the State, the Commission and the representatives, the Court deems it necessary for the State to provide information regarding the following obligations that remain unfulfilled:

- 1) investigation, identification, and punishment of the perpetrators and masterminds of the Plan de Sánchez Massacre (*first operative paragraph of the Judgment*);
- 2) dissemination of the American Convention and the Judgments on the Merits and on Reparations and Costs, and delivery of said documents to the victims (*fourth operative paragraph*);
- 3) publication, in Spanish, of the section entitled Proven Facts in Chapter V and the first to fourth operative paragraphs of the Judgment on the Merits, as

well as the first declaratory paragraph and the first to ninth operative paragraphs of the Judgment on Reparations and Costs in a newspaper with national circulation. In addition, the State must publish said sections in the Official Gazette and in another newspaper with national circulation in Maya-Achí (*fifth operative paragraph*);

4) payment of the amount specified in paragraph 104 of the Judgment to maintain and improve the infrastructure of the memorial chapel built in honor of the victims (*sixth operative paragraph*);

5) payment of the amounts specified in the Judgment as compensation for pecuniary and non pecuniary damage to each one of the victims, as appropriate (Considering clauses No. 51 and 53), as set forth in the Judgment (*tenth and eleventh operative paragraphs*); and

6) payment of the remaining 33.33% of the amount specified in the Judgment for costs and expenses in the international proceedings to the representatives (Considering clauses No. 52 and 53), as set forth in the Judgment (*twelfth operative paragraph*).

57. That the Court will determine the general level of compliance with the Judgment on Reparations and Costs of November 19, 2004, once the relevant information on the measures that have not yet been adopted is submitted to the Court.

THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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

DECLARES:

1. That, in accordance with Considering clauses No. 9 to 12 of this Order, the State has fully complied with the requirement to organize a public ceremony to acknowledge its international responsibility, in order to make reparation to the victims, and to publicly honor the memory of those executed in the Plan de Sánchez Massacre (*second and third operative paragraphs of the Judgment*).

2. That, in accordance with the provisions of this Order, the State has complied with the obligations set out in the following operative paragraphs of the Judgment on Reparations and Costs:

a) translation of the American Convention on Human Rights, the Judgment on the Merits and the Judgment on Reparations and Costs into Maya-Achí, in accordance with Considering clauses No. 13 to 17 of this Order (*fourth operative paragraph of the Judgment*);

b) publication, in the Official Gazette, of the section entitled Proven Facts in Chapter V and the first to fourth operative paragraphs of the Judgment on the Merits, as well as Chapter VII, entitled Proven Facts, of the Judgment on

Reparations and Costs in Spanish, in accordance with Considering clauses No. 18 to 22 of this Order (*fifth operative paragraph of the Judgment*);

c) establishment of a health care center in the village of Plan de Sánchez, supplied with proper personnel, and training of the personnel of the Rabinal health care center so that they may provide psychological care, in accordance with Considering clauses 28 to 32 and 38 to 42 of this Order (*seventh and ninth operative paragraphs of the Judgment*);

d) payment of 66.66% of the compensation for pecuniary and non-pecuniary damage, pertaining to the first and second payment, to most of the victims in the instant case, in accordance with Considering clauses 38 to 51 and 53 to 54 of this Order (*tenth, eleventh, thirteenth, and fourteenth operative paragraphs of the Judgment*), and

e) payment of 66.66% of the amount specified in the Judgment as reimbursement of costs and expenses, pertaining to the first and second payments, to the representatives, in accordance with Considering clauses 43, 44, 45, 46 and 52 of this Order (*twelfth operative paragraphs of the Judgment*).

3. That the Court will keep the proceedings open to monitor compliance with the obligations that remain unfulfilled in this case, mainly:

a) to investigate, identify, and punish the perpetrators and masterminds of the Plan de Sánchez Massacre (*first operative paragraph of the Judgment*);

b) to disseminate the American Convention on Human Rights, the Judgment on the Merits and the Judgment on Reparations and Costs in the municipality of Rabinal and deliver said documents to the victims in the instant case (*fourth operative paragraph of the Judgment*);

c) to publish, in a newspaper with national circulation, the section entitled Proven Facts in Chapter V and the first to fourth operative paragraphs of the Judgment on the Merits, as well as Chapter VII, entitled Proven Facts, of the Judgment on Reparations and Costs in Spanish. In addition, to publish the translation of said sections, in Maya-Achí, in the Official Gazette and another newspaper with national circulation (*fifth operative paragraph of the Judgment*);

d) to pay the amount specified in the Judgment to maintain and improve the infrastructure of the memorial chapel (*sixth operative paragraph of the Judgment*);

e) to provide adequate housing to the surviving victims who reside in the village of Plan de Sánchez and who require the same (*eighth operative paragraph*);

f) to implement the following programs in the affected communities: a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road system between said communities and the municipal capital of Rabinal; c) sewage system and potable water supply; d) supply of teaching personnel trained in intercultural

and bilingual teaching for primary, secondary and comprehensive schooling in these communities (*ninth operative paragraph*);

g) to pay in full the amount specified in the Judgment as compensation for pecuniary and non pecuniary damage (*tenth, eleventh, thirteenth, and fourteenth of the Judgment*); and

i) to pay in full the amount specified in the Judgment as reimbursement of costs and expenses (*twelfth operative paragraph of the Judgment*).

AND DECIDES:

1. To call upon the State to adopt all such measures as may be necessary to effectively and promptly comply with any pending measures ordered by the Court, in accordance with 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 April 10, 2008, a report specifying such measures as may have been adopted to comply with the reparations ordered by this Court which remain unfulfilled.

3. To continue monitoring compliance with the obligations set out in the Judgment on Reparations and Costs of November 19, 2004, which have not been fulfilled yet.

4. To request the Secretariat of the Court to notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the victims and their next of kin.

Sergio García-Ramírez
President

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary