

**Order of the
Inter-American Court of Human Rights
of August 5, 2008
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 on Reparations” or “the Judgment”) rendered by the Inter-American Court of Human Rights (hereinafter, “the Court”) on November 19, 2004.
2. The Order of the Court on Monitoring Compliance with Judgment of November 28, 2007, whereby, *inter alia*, the Court declared as follows:
 1. That, in accordance with Considering Clauses Nos. 9 to 12 of the [...] Order, the State has fully complied with the requirement to organize a public act to acknowledge its responsibility, redress the victims, and publicly honor the memory of those who were executed in the Plan de Sánchez Massacre (*second and third operative paragraphs of the Judgment*).
 2. That, in accordance with the [...] Order, the State has complied with the following operative paragraphs of the Judgment on Reparations and Costs:
 - a) Having the text of the American Convention on Human Rights and the Judgments on Merits and on Reparations and Costs translated into the Maya-Achí language, in accordance with Considering Clauses Nos. 13 to 17 of the [...] Order (*fourth operative paragraph of the Judgment*);
 - b) Publishing the Proven Facts section of Chapter V, as well as the first to fourth operative paragraphs of the Judgment on the Merits, and Chapter VII, on Proven Facts, of the Judgment on Reparations and Costs in Spanish, in the Official Gazette, in accordance with Considering Clauses Nos. 18 to 22 of the [...] Order (*fifth operative paragraph of the Judgment*);
 - c) Setting up a staffed health-care center in the village of Plan de Sánchez, and train the staff of the Rabinal health-care center in order that they may provide psychological care, in accordance with Considering Clauses Nos. 28 to 32 and 38 to 42 of the [...] Order (*seventh and ninth operative paragraphs of the Judgment*);
 - d) Settling 66.66% of the sum of compensation awarded for pecuniary and non-pecuniary damage as first and second installments payable to most of the victims in the instant case, in accordance with Considering Clauses Nos. 38 to 51 and 53 to 54 of th[e ...] Order (*tenth, eleventh, thirteenth and fourteenth operative paragraphs of the Judgment*), and
 - e) Settling 66.66% of the sum awarded in the Judgment as first and second installments on account of costs and expenses payable to the representatives, in accordance with Considering Clauses Nos. 43, 44, 45, 46 and 52 of the [...] Order (*twelfth operative paragraph of the Judgment*).

3. That it will keep open the procedure to monitor compliance with those obligations which have not yet been fully complied with in the instant case, namely:

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

b) To publicize the texts of the American Convention on Human Rights and the Judgments on Merits and on Reparations and Costs in the municipality of Rabinal, and to provide a copy thereof to the victims in the instant case (*fourth operative paragraph of the Judgment*);

c) To publish the Proven Facts section of Chapter V and the first to fourth operative paragraphs of the Judgment on Merits, and Chapter VII, Proven Facts, of the Judgment on Reparations and Costs, in Spanish, in a daily newspaper with national circulation. Also, to publish a translation of such paragraphs into the Maya-Achí language in the Official Gazette and in another national-circulation newspaper (*fifth operative paragraph of the Judgment*);

d) To pay the amount set in the Judgment for infrastructure maintenance and improvements at the memorial chapel (*sixth operative paragraph of the Judgment*);

e) To provide adequate housing to those survivors residing in the village of Plan de Sánchez who so require (*eighth operative paragraph*);

f) To implement programs on the following issues 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 systems between the 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 compensation for pecuniary and non-pecuniary damage awarded in the Judgment (*tenth, eleventh, thirteenth, and fourteenth operative paragraphs of the Judgment*); and

i) To pay in full the compensation set in the Judgment as costs and expenses (*twelfth operative paragraph of the Judgment*).

[...]

and Decide[d]:

1. To call upon the State to adopt all measures required to promptly and effectively comply with the pending aspects of the Judgment, in accordance with the provisions of Article 68(1) of the American Convention on Human Rights.

2. To ask the State to submit to the Inter-American Court of Human Rights, no later than April 10, 2008, a report specifying all the measures adopted to comply with such reparations ordered by the Court as are currently pending compliance.

3. To continue monitoring compliance with the pending paragraphs of the Judgment on Reparations and Costs of November 19, 2004.

[...]

3. The reports submitted by the State of Guatemala (hereinafter, "the State" or "Guatemala") on January 24 and April 9, 2008, regarding compliance with the Judgment.

4. The briefs of the victims' representatives (hereinafter, "the representatives") of January 17, March 26, April 7, April 25, and June 18, 2008.

5. The briefs submitted by the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) on January 16, April 1 and June 6, 2008.

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 Convention” or “the American Convention”) since May 25, 1978, and that it accepted the compulsory jurisdiction of the Court on March 9, 1987.

3. That the obligation to comply with the rulings of the Court reflects a basic principle of the law on the international responsibility of States, as supported 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 the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke their municipal laws to escape their pre-established international responsibility.¹ The obligations of States Parties under the Convention are binding on all powers and organs of the State.

4. That the States Parties to the Convention must guarantee compliance with the provisions thereof and their effects (*effet utile*) at the domestic-law level. This principle applies not only in connection with the substantive provisions of human rights treaties (in other words, those addressing the protected rights), but also in connection with the procedural provisions, such as those concerning compliance with the Court’s decisions. These obligations are to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, considering the special nature of human rights treaties.²

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5. That, as regards to the first operative paragraph of the Judgment (*supra* Having Seen clause No. 1), the State expressed that, through the Special Human Rights Violation Cases Unit, the Attorney General’s Office reported that a number of steps had

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 the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of May 7, 2008, Considering clause No. 5; and *Case of Claude-Reyes et al. v. Chile*. Monitoring Compliance with Judgment, Order of the President in Current of the Inter-American Court of Human Rights of June 10, 2008, Considering clause No. 5.

² Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 6; and *Case of Claude-Reyes et al. v. Chile*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 6.

been taken to obtain information from the Ministry of Defense regarding the military division in charge of the operations undertaken in the sector where the events took place, as well as the identity of the officers, civil patrol members and military commissioners that were allegedly involved in the Massacre, with a view to determining the applicable criminal liability. It further noted that the Attorney General's Office had heard the testimony of the victims' next of kin and was trying to locate persons who, given the offices held at the time of the events, might have knowledge of the facts. Lastly, it stated that it would continue to report to the Court on the progress made in the investigation (*supra* Having Seen clause No. 3).

6. That the representatives stressed that the "[...] investigation, prosecution and punishment of those responsible for [the] facts constitute one of the most relevant issues [...];" that, notwithstanding the State's obligation to comply with the orders of the Court, the State has failed to take any action in connection with the investigation of the facts, noting once again "[...] the issues already raised before the Honorable Court regarding the incapacity of the Guatemalan organs in charge of administering Justice, and the remarkable bias shown by certain such organs as regards to hindering [...] access to justice by [the] victims [...]". They further noted that the State has failed to specify whether the investigation steps it referred to were taken in compliance with the Court's judgment or predated said Judgment, thus pertaining to other proceedings instituted by the victims. In this regard, they further stated that the only investigation step they were aware of consisted in the taking of additional statements from certain witnesses who had testified in January, 2006. Moreover, they claimed that, so far, there is no information available regarding the identity of the judge and prosecutor in charge of the case and that "[...] given the situation of risk that still prevails in Guatemala for those who initiate and drive this sort of actions forward [...]" such information plays an important role in allowing adequate security measures to be taken. Lastly, they concluded that it is necessary for the State to report on: a) any progress made in the investigation after the Judgment was rendered; b) the identity of the judicial authorities in charge of the relevant proceeding; c) whether the criminal action mentioned by the State is an independent action or is a part of the genocide case pending before the national courts; and d) whether the surviving victims and their representatives are allowed to participate in the Committee to Advance the Case so as to foster the exchange of information (*supra* Having Seen clause No. 4).

7. That, as regards to the obligation to investigate the facts, the Commission noted that the State has failed to provide detailed information on any progress made in connection with such obligation. It further noted that "[...] securing justice is critical in order to mitigate the damage caused; accordingly, it is essential for the State to take concrete measures therefor as soon as possible [...]" and for it to provide the Court with a copy of the judicial files for the actions instituted for such purpose (*supra* Having Seen clause No. 5).

8. That, based on the information submitted by the parties, it is the Court's view that the State must submit detailed, updated information on the progress made in the investigation since the Judgment rendered by the Court on November 19, 2004, so that the Court will assess the status of compliance with the first operative paragraph of said Judgment (*supra* Having Seen clause No. 1).

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9. That, as regards to the fourth operative paragraph of the Judgment (*supra* Having Seen clause No. 1), which provides for the obligation to publicize the text of the Convention and the Court's Judgments in the municipality of Rabinal and the obligation to provide a copy thereof to the victims in the instant case, the State expressed that, on paying the third installment, which was done on January 11, 2008, it provided each beneficiary with a copy of the "popular version" of the published Judgment, in Maya-Achí and Spanish. It also stated that it had complied with its obligations to publish and publicize said judgments. Lastly, it reported that publication and publicizing of the text of the Convention in the Maya-Achí language was still pending (*supra* Having Seen clause No. 3).

10. That the representatives noted that the beneficiaries had welcomed said publication, notwithstanding which they had realized "[...] that said version [...] does not conform to all of the relevant operative paragraphs." Furthermore, they noted that the State has failed to publicize the Judgment in the Municipality of Rabinal and to publish the American Convention in the Maya-Achí language. Moreover, they stated that the State had failed to reply to their proposal regarding the method through which such texts should be disseminated, which included an audio version intended to allow access thereto by illiterate individuals (*supra* Having Seen clause No. 4).

11. That the Commission expressed its satisfaction with the provision of the text of the Judgments to the victims, noting that it was awaiting information regarding the publicizing of the Judgment in the Municipality of Rabinal. It also insisted on the importance "[...] of involving and consulting with the injured party regarding the most effective mechanisms for the reproduction and publicizing process [...]," so that it is conducted in a manner that conforms to the spirit of the reparation ordered by the Court (*supra* Having Seen clause No. 5).

12. That, based on the information submitted by the parties and the analysis of the evidence presented, as regards to the dissemination of the Judgments on Merits and on Reparations, the Court notes that the State provided a document written in both the Maya-Achí and Spanish languages, providing an account of the context in which the massacre took place, as established in the Judgment on Merits, along with a summarized list of the proven facts and operative paragraphs Ns. 1 to 5 and 7 to 9 of the Judgment on Reparations. Consequently, the Court finds that, by publishing and delivering said documents to the victims, the State has disseminated the Judgments in the Municipality of Rabinal and partially complied with the fourth operative paragraph of the Judgment on Reparations. However, it urges the State, to the extent possible, to broadly disseminate said document in the Municipality of Rabinal, irrespective of the means used therefore, taking the meaning and scope of the Judgment into consideration. Moreover, the Court finds, as established in item (a) of the second operative paragraph of its Order of November 28, 2007, that the State has complied with its obligation to have the Convention translated into the Maya-Achí language. However, it should be noted that delivery of the American Convention to the victims and its dissemination in the Municipality of Rabinal are still pending, which necessarily requires that the State report to this Court on any progress made in complying with the related orders contained in the Judgment on Reparations.

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13. That, as regards to the fifth operative paragraph of the Judgment (*supra* Having Seen clause No. 1) and the provisions of item (c) of the third declarative paragraph of the Order of the Court of November 28, 2007 in connection with the publication of the Proven Facts section of Chapter V and the first to fourth operative paragraphs of the Judgment on Merits, and Chapter VII on Proven Facts of the Judgment on Reparations and Costs in Spanish, in a daily newspaper with national circulation, and publication of the translated version of said texts into the Maya-Achí language in the Official Gazette and in another national-circulation newspaper, the State expressed that compliance therewith was still pending.

14. That the representatives agreed that the State has yet to publish the portions of the judgments [on Merits and on Reparations and Costs] specified by the Court, as follows: in Maya-Achí in the Official Gazette, and in both languages in another newspaper of national circulation. They further stated that almost four years have elapsed since the date of the Judgment, and three years since the date on which this operative paragraph should have been complied with, which is why “[...] it is urgent that the State fulfill this obligation without further delay [...]” (*supra* Having Seen clause No. 4).

15. That, as regards to this operative paragraph, the Commission stated that it awaited information regarding compliance with all pending aspects and that once “[...] all practical obstacles are sorted, it is essential that the beneficiaries of this effort can learn of the translated texts [...]” (*supra* Having Seen clause No. 5).

16. That, based on the information provided by the parties, the analysis of the submitted evidence, and the provisions of item (c) of the third declarative paragraph of the November 28, 2007 Order of the Court, the Court has verified that publication of the Proven Facts section of Chapter V and the first to fourth operative paragraphs of the Court's Judgment of April 29, 2004, in Spanish, in a national circulation newspaper is still pending. Also pending publication is the Maya-Achí translation of the text of said operative paragraphs into the Maya-Achí language in the Official Gazette and a national circulation newspaper. Accordingly, the Court refers to what was ordered in item (c) of the third declarative paragraph of its Order of November 28, 2007 (*supra* Having Seen clause No. 2). In turn, the Court finds it necessary for the State to report to it as soon as the relevant publications are completed, so that the Court can assess the status of compliance with the fifth operative paragraph of the Judgment.

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17. That, as regards to the sixth operative paragraph, which deals with payment of the sum set in the Judgment for infrastructure maintenance and improvements at the memorial chapel, the State indicated that such payment could not be effected because the representative of the village's neighbors' association refused to accept the relevant check. It added that, by way of the communication of February 11, 2008, it had requested that the representatives get involved in the matter in order that it could comply with this obligation. In this regard, it explained that, as soon as the legal representatives advise it that the situation has been worked out, it will coordinate the relevant payment, as the necessary funds are already available. Lastly, it noted that it will report to the Court as soon as this operative paragraph is complied with (*supra* Having Seen clause No. 3).

18. That the representatives indicated that an association had been set up with the participation of members of the village of Plan de Sánchez and other beneficiaries. However, since certain administrative procedures have yet to be completed in connection with the formal organization of said association, an account still remains to be opened in the name of the entity so that the money can be deposited into it. They added that the State had advised them that the funds were already available. Then, they stated that “[...] the procedure for the registration of [the] Association had finally been completed and the relevant account opened [...]” and that they were awaiting notice from the State regarding the date on which the relevant amount is to be actually paid into it (*supra* Having Seen clause No. 4).

19. That the Commission welcomed the favorable disposition of the State to comply with its obligations under this operative paragraph. It further explained that it was awaiting resolution of the existing obstacles, as the State already had the funds required to be paid for infrastructure maintenance and improvements at the Plan de Sánchez chapel (*supra* Having Seen clause No. 5).

20. That, based on the information provided by the parties, even though the State is willing to pay the relevant sum for infrastructure maintenance and improvements at the memorial chapel, to the date of this Order there is no up-to-date information on the status of compliance with this operative paragraph. Moreover, considering the statements of the representatives, the Court finds it necessary for them to provide the State with the relevant information (name and bank account number for the deposit, etc.), so as to speed up the relevant steps. Lastly, the Court reiterates its statements in item (d) of the third declarative paragraph of its Order of November 28, 2007, (*supra* Having Seen No. 2), and considers it essential that both the State and the representatives report back to it on the steps taken in order to comply with the sixth operative paragraph of the Judgment, so that compliance status may then be assessed.

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21. That, as regards to, the tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth operative paragraphs of the Judgment (*supra* Having Seen clause No. 1), which deal with the amounts to be paid on account of pecuniary damage, non-pecuniary damage and costs and expenses, the State advised, that on January 11, 2008, it had paid the third and final installment of the full amount set in said Judgment. Moreover, the State provided 268 payment release documents evidencing payment to most of the victims of the third installment of the full amount awarded in the Judgment plus interest accrued as of such date. It also provided a release document for payment of the third installment on account of costs and expenses to the representatives (*supra* Having Seen clause No. 3).

22. That this Court finds it appropriate next to make reference to the situation of certain victims or their next of kin regarding actual payment of the compensation awarded in the Judgment. In this regard, it should be noted as to the failure to submit the copies of the release documents for payment of the second installment to Rosario Galeano, Juan Galeano, Albino Cajbón, Hilario Galeano, Catalina Galeano, and Silvestre Galeano, which this Court had asked for in the Order of November 28, 2007, that the State explained that, upon examining the information provided by Silvestre and Hilario Galeano, it had verified that such persons were indeed the ones referred to in the Judgment on Reparations and, therefore, on January 11, 2008 they were paid the full

amount set by the Court. Regarding payment of the amount due to Rosario Galeano, Juan Galeano, Albino Cajbón and Catalina Galeano, the State reported that such persons had not claimed payment. Furthermore, it advised the Court that Crecencio, Clara, Remigia, Gabino, Hilarión and Rigoberto Galeano-Sical, who had originally received payment, acknowledged that they had been mistaken for the relevant victims and agreed that, upon reimbursement of the amounts paid them to the State, their cases will be submitted to the National Compensation Program in order that they may be examined by said entity (*supra* Having Seen clause No. 3).

23. That, as regards to the failure to submit copies of the release documents for payment of the second installment to Rosario Galeano, Juan Galeano, Albino Cajbón, Hilario Galeano, Catalina Galeano, and Silvestre Galeano –which copies the Court had asked for through the Order of November 28, 2007–, the representatives stated that six members of the Galeano-Sical family had been paid the first installment under mistaken identities, but that they believed that the State (acting through COPREDH) had reached an agreement with said persons on account of the mistake made (*supra* Having Seen clause. 4).

24. That, according to the payment release records provided by the State, the Court has verified that the full amount set in the Judgment, plus interest, was settled as a single payment to Hilario and Silvestre Galeano.

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25. That, as regards to the failure to provide a copy of the release document for payment of the second installment to Lucía Raxcacó-Sesám, on April 11, 2008, the State expressed that Mr. Simeón Galeano-Pirir had been advised, in his capacity as legal representative of the minor children of Mrs. Raxcacó-Sesám, named Hugo Leonel Galeano-Raxcacó and Irma Johann Galeano-Raxcacó, that he was required to start an intestate succession proceeding in order that the minors could be declared the legal heirs of Mrs. Raxcacó-Sesám (*supra* Having Seen clause No. 3).

26. That, as regards to non-payment of the second and third installments to Mrs. Lucía Raxcacó-Sesám, the representatives argued that, since she had passed away, it was necessary for the State to indicate whether the next of kin have come forward to assert their claim, and to report on the current situation (*supra* Having Seen clause No. 4).

27. That, based on the information submitted by the parties, the Court finds it necessary for both the State and the representatives to accurately report on the procedural status of Lucía Raxcacó-Sesám's intestate succession and payment to her heirs.

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28. That, as regards to the failure to provide a copy of the release document for payment of the first installment to Zoila, Pedro and Adolfo and/or Rodolfo Soto-Martínez, in its report submitted on April 11, 2008, the State explained that the lady had received “[...] as agent for her children Zoila, Pedro and Adolfo and/or Rodolfo Soto-Martínez, the amount of the first installment, as per document No. 333, dated August

31, 2006 [...]” and provided said document as an attachment to the report. It further stated that the delay in payment of the first installment was not a result of the State’s unwillingness to pay but, rather, was due to the fact that she had failed to timely submit the power of attorney to represent her children (*supra* Having Seen clause No. 3).

29. That, as regards to the failure to provide a copy of the release document for payment of the first installment to María Martínez-García or Maruca Martínez, in her capacity as agent for her children Zoila, Pedro, and Adolfo or Rodolfo Soto-Martínez, in the observations submitted on April 7, 2008 the representatives noted that, as per the documents provided by the State, Mrs. María Martínez-García received payment of the second and third installments on behalf of the aforementioned children, and they argued that it was necessary for the State to explain its failure to make payment of the first installment to each of the aforementioned persons (*supra* Having Seen clause No. 4).

30. That, based on the information submitted by the State, the Court has verified that the State effected payment of the first installment that was owing to Zoila, Pedro and Adolfo or Rodolfo Soto-Martínez through their agent, Mrs. María Martínez-García or Maruca Martínez.

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31. That, as regards to the failure to submit the release document for payment of the first installment to Gregoria Tecú-Chajáj –who, as verified by the Court in its Order of November 28, 2007, had received payment of the second, but not the first, installment–, the State indicated that she had already been paid the first installment and provided release document No. 45 evidencing such payment.

32. That, based on the information submitted by the State, the Court verified that the first installment which was owing to Gregoria Tecú-Chajáj was actually paid to her.

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33. That the Court notes that the information submitted by the State does not show payment of the third installment to Mrs. Natividad Morales (single last name) and, therefore, it is critical that the State submit updated information on her situation. In this regard, it should be noted that she has been paid the first and second installments, as per the release documents previously submitted by the State. Moreover, the Court has verified that the heirs of Mr. Gumercindo Orellana have received, via a single payment, the full amount set in the Judgment as due and payable to him.

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34. That, as regards to the similar or identical names featured in the Judgment, the State explained that it made payment only to those persons who had been duly identified. It further noted that it made payment of the amount set by the Court, in three installments, to 270 persons, and indicated that, in those cases where payment had not been made, that was due to the fact that the relevant persons had failed to

appear before the representatives or the State to prove their status as victims (*supra* Having Seen clause No. 3).

35. That, as regards to the identical names in the Judgment, the representatives submitted the following list: Rosa Raxcacó-Juárez, Plácido Jerónimo-Grave, Justina Sánchez, Juan Álvarez-Pérez, Humberto Rojas, Guillermo Toj-Manuel, Domingo Ic-Rojas and Juana Juárez-Grave, and stated that only one of each person whose name was the subject of duplication had received the relevant payments. As regards to the similar names listed in the Judgment, the representatives submitted a list of 42 names of which, according to them, 20 persons had been paid all three installments of the compensation ordered in the Judgment, and 22 names were people which had been paid none of the installments³ (*supra* Having Seen clause No. 4). Through the brief of April 7, 2008, the representatives insisted that it was necessary for the State to guarantee compliance with paragraph 121⁴ of the Judgment on Reparations and Costs, and revisited the difficulties encountered to identify those who had been affected by the Massacre. They further noted that “[...] [they] f[ound] it important for the State to be able to provide information [...] that will help determine whether a proceeding has been or will be started that will make it possible to safekeep the relevant amounts in order that, when the involved persons are able to appear and assert their claim thereto, no difficulty will arise to comply with the orders [...]” in the Judgment. Moreover, they stated that the State was required to provide information on the situation of those beneficiaries who were deceased and those who had failed to receive one or more of the payments. Furthermore, they noted that the State was “[...] 85% in compliance as regards to monetary compensation [...]” (*supra* Having Seen clause No. 4). Lastly, according to the representatives, the State had failed to send the documents evidencing payment of the first installment to Paulina Tecú-González or Paula Tecú-González and the relevant records of payment of the second installment to Eustaquia Sesám-Tecú and César Augusto Reyes-Álvarez (*supra* Having Seen clause No. 4).

³ Such names are as follows: María Modesta Hernández-Ic (paid all three installments) and Modesta Hernández (no payment received); Lázaro Alvarado-Raxcacó (paid all three installments) and Lázaro or Pedro Alvarado-Manuel (no payment received); Celestino Morales-Pérez (paid all three installments) and Celestino Morales-García (no payment received); Juan Cajbón-Corazón (paid all three installments) and Juan Cajbón (no payment received); Alejandro Grave-Oxlaj (paid all three installments) and Alejandro Grave (no payment received); Eugenia Ivoy (paid all three installments) and Eugenia Morales-Iboy (no payment received); Pablo Grave-Cajbón (paid all three installments) and Pablo Grave-Jerónimo (no payment received); Virgilio Ic-Rojas (paid all three installments) and Virgilio Rojas (no payment received); Valerio Grave-Cajbón (paid all three installments) and Valeria Grave-Cajbón (no payment received); Salomé Ic-Rojas and Salomé Rojas (no one came forward to assert a claim under either name); Ramón Rojas-Ic (paid all three installments) and Ramón Rojas (no payment received); Paulina Guzmán-Alvarado (paid all three installments) and Paulina Guzmán (no payment received); Leocadia Ic-Rojas (paid all three installments) and Leocadia Rojas (no payment received); Emiliana Grave (paid all three installments) and Emiliana Grave-López (no payment received); Julia Raxcacó-Manuel (paid all three installments) and Julia Manuel (no payment received); Julián Tecú-Chajaj (paid all three installments) and Julio Tecú-Chajaj (no payment received); Salvador Jerónimo-Sánchez (paid all three installments) and Salvador Manuel-Jerónimo (no payment received); Emilia or Emiliana Cajbón-Grave (paid all three installments) and Emiliano Cajbón-Grave (no payment received); María Rogelia Jerónimo-Corazón (paid all three installments) and María Aurelia Jerónimo-Corazón (no payment received); Ceferino Jerónimo-Ixpatá (paid all three installments) and Jerónimo Jerónimo-Ixpatá (no payment received); Manuel Amperez-Corazón (paid all three installments) and Corazón Manuel-Amperez (no payment received).

⁴ “If, due to causes attributable to the beneficiaries of the compensation, it should not be possible for them to receive it within the established terms of one year or twenty-four months from the notification of the judgment, the State shall deposit the amounts in their favor in an account or a deposit certificate of a solvent Guatemalan banking institution, in United States dollars, in the most favorable financial conditions permitted by law and banking practice. If, after ten years, the compensation has not been claimed, the amount shall be returned to the State, with the interest earned.” Case of the *Plan de Sánchez Massacre v. Guatemala*. Judgment on Reparations of November 28, 2004; para. 121.

36. That, as part of its comments of June 6, 2008, the Commission expressed its satisfaction regarding the fact that the State had effected payment of the third installment to most of the victims. However, it further noted that it considered it necessary for the State to comply with the request for information made by the representatives and to receive the latter's comments "[...] to assess adequate compliance with the monetary obligations established in the instant case [...]" (*supra* Having Seen Clause No. 5).

37. That, based on the information provided by the parties, the Court finds that there are still victims who have not been paid one or more of the compensation installments or who have not been paid any of the compensation amounts set in the Judgment. In view of this, the Court finds it necessary for both the State and the representatives to accurately report on the situation of (a) each person that has not received payment of one or more installments (see table attached to this Order); and (b) each person whose name is identical or similar to that of another person and has not yet received payment of the relevant compensation amounts (see table attached to this Order).

38. That, in this regard, it should be noted that, owing to the complex particularities of the instant case and the difficulties encountered identifying the victims, in the Judgment on Reparations certain victims were named but could not be identified. Accordingly, in paragraph 67 of the Judgment,⁵ the Court ordered that those persons for whom proper identification documents had not been submitted were to appear before the relevant State authorities within twenty-four months of the date of notice of the Judgment, to provide the necessary information for their identification, in accordance with the requirements set out in paragraphs 64 and 65 of said Judgment, and to assert their claim. In view of this, the Court finds it critical for both the State and the representatives to submit accurate, updated information on such persons, so that the Court will have sufficient elements to assess whether the period prescribed in paragraph 67 of the Judgment has elapsed for each such person.

39. That, based on the foregoing, the Court notes that it is possible that some of the persons named and duly identified who timely claimed payment of the compensations due them could not do so within one year or twenty-four months as from the date of notice of the Judgment, either due to reasons within their control or otherwise. In those cases, in accordance with paragraph 121 of the Judgment, the State is to deposit the amounts due to them into an account, or take out a certificate of deposit from a Guatemalan bank. Accordingly, the Court finds it necessary to request that the State and the representatives submit accurate, updated information on any such persons and, particularly, that the State indicate whether an account or certificate of deposit has been opened with or taken from a bank in the name of said persons, to guarantee payment of the compensation amounts set in the Judgment once all obstacles are worked out. Upon receiving this information, the Court will assess, to the extent relevant, the situation of each such person.

⁵ Said paragraph provides as follows: "[w]ith regard to the victims individualized in the judgment delivered by the Court on April 29, 2004, or those who were included for the first time in the attachments to the representatives' final written arguments or in the helpful evidence (in accordance with paragraph 48 of that judgment), with regard to whom the representatives could not remit the appropriate documents to identify them, this Court decides that the compensation that corresponds to them for the damage suffered will be adjusted to the parameters of the identified victims (*supra* paras. 64 and 65), provided they present themselves before the competent State authorities within 24 months of the notification of this judgment and bring the necessary information to identify themselves". *Cf. Plan de Sánchez Massacre V. Guatemala*. Judgment on Merits of April 29, 2004, para. 48.

40. That, as regards to payment of the third installment on account of costs and expenses, the State has indicated that such payment has been effected (*supra* Considering clause No. 21) and the Court has so verified based on record No. 38, of January 18, 2008, and the relevant document evidencing payment. Accordingly, the Court concludes that the State has fully discharged its obligation to make payment of costs and expenses to the representatives as provided for in the twelfth operative paragraph of the Judgment.

41. That, considering the information submitted by the parties, it is the Court's view that the State has complied with its obligation to pay the third installment of the compensations set in the Judgment for the benefit of 270 victims or their next of kin, on account of both pecuniary and non-pecuniary damage, as detailed in the attached table. In this regard, the Court finds that, upon receiving such payment, most of the victims or their next of kin were settled the full amount of compensation due them for pecuniary and non-pecuniary damage.

42. That, notwithstanding the foregoing, as established in Considering clauses Nos. 22 to 27 and 33 to 39 of this Order, and as illustrated by the attached table, certain victims or next of kin are yet to be paid a portion or the full amount of the compensation set in the Judgment on account of pecuniary and non-pecuniary damage; accordingly, the State has partially complied with its obligations under the tenth, eleventh, thirteenth, fourteenth and fifteenth operative paragraphs of the Judgment (*supra* Having Seen clause No. 1). Therefore, it is necessary for the State and the representatives to provide updated information in order that compliance status can be assessed in connection with said operative paragraphs of the Judgment.

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43. That, as regards to the seventh, eighth and ninth operative paragraphs of the Judgment, the State has indicated that it "[...] will continue to provide information [...] on the steps taken with a view to complying with the obligations mentioned [...]" in said operative paragraphs (*supra* Having Seen clause No. 3).

44. That, as regards to the provision of medical and psychological services and the supply of medications required under the seventh operative paragraph of the Judgment, the representatives noted that the health-care center has yet to be built, and that the physical and psychological health care that is being provided fails to take into consideration "[...] the particularities of the target group, [such as] culture, idiosyncrasy and the suffering sustained as a result of the violence endured during the domestic armed conflict." Furthermore, such circumstances have become an obstacle that prevents any progress in complying with this operative paragraph (*supra* Having Seen clause No. 4).

45. That, as regards to these operative paragraphs, the Commission noted that it did not have information regarding the obligations to provide housing and the development and implementation of programs under the ninth operative paragraph of the Judgment; accordingly, it finds it essential for the State to report on compliance with all measures of reparation ordered by the Court (*supra* Having Seen clause No. 5).

46. That the Court notes that the State has provided little updated information on compliance with the seventh, eighth and ninth operative paragraphs of the Judgment and that, pursuant to paragraph 117 of the Judgment, these are to be implemented within a period not to exceed five years as from December 7, 2004, the date of notice of the Judgment to the parties. Accordingly, considering the Order of November 28, 2007 (*supra* Having Seen clause No. 2), the Court finds that the State needs to take all such steps as may be required to comply with the seventh, eighth and ninth operative paragraphs of the Judgment and to report back to it on any progress made in connection therewith, so that the Court may assess compliance with them.

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47. That the Court appreciates the State's full compliance with the twelfth operative paragraph of the Judgment. Moreover, partial compliance with the fourth, fifth, tenth, eleventh, thirteenth, fourteenth and fifteenth operative paragraphs of said Judgment, as well as the progress made in complying with the seventh operative paragraph thereof, constitutes relevant progress by the State in executing and implementing the judgments of the Court.

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48. That, on monitoring overall compliance with the Judgment rendered in the instant case and having analyzed the information provided by the State, the Commission and the representatives, the Court finds it essential for the State to provide information on the following aspects which are still pending:

- a) Investigation, identification and possible punishment of the perpetrators and masterminds of the Plan de Sánchez Massacre (*first operative paragraph of the Judgment*);
- b) Publicizing of the text of the American Convention in the Spanish and Maya-Achí languages and dissemination thereof in the Municipality of Rabinal (*fourth operative paragraph*);
- c) Publication of the Proven Facts section of Chapter V and the first to fourth operative paragraphs of the Judgment on Merits, and of the first declaratory paragraph and first to ninth operative paragraphs of the Judgment on Reparation and Costs in a national circulation newspaper, in Spanish. Also, publication of said texts in the Official Gazette and in a national circulation newspaper in the Maya-Achí language (*fifth operative paragraph*);
- d) Payment of the amount set in paragraph 104 of the Judgment on Reparations for infrastructure maintenance and improvements at the chapel in memoriam of the victims (*sixth operative paragraph*);
- e) Provision of free-of-charge medical and psychological treatment and medication to those victims who may so require (*seventh operative paragraph*);
- f) Provision of adequate housing to those survivors of the village of Plan de Sánchez who may so require (*eighth operative paragraph*);

g) Implementation of programs on the following issues 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 systems between the 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*);

h) Payment of the compensation amount awarded in the Judgment on Reparations on account of pecuniary and non-pecuniary damage to those victims or next of kin who are yet to be paid such amount in full, in accordance with Considering Clauses Nos. 37 and 42, as provided for in the Judgment on Reparations (*tenth, eleventh, thirteenth, fourteenth and fifteenth operative paragraphs*);

49. That the Court will consider the general status of compliance with the Judgment on Reparations and Costs of November 19, 2004 once it receives the relevant information on those reparation aspects that are still pending compliance.

NOW THEREFORE

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising its power to monitor compliance with its judgments, in accordance with Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, Articles 25(1) and 30 of the Statute and Article 29(2) of the Rules of Procedure,

DECLARES,

1. That, as indicated in this Order, the State has fully complied with its obligation to make full payment of the amount awarded in the Judgment on Reparations on account of costs and expenses to the representatives, in accordance with Considering Clause No. 37 hereof (*twelfth operative paragraph of the Judgment*).

2. That, as stated in this Order, the State has partially complied, to the relevant extent, with the following operative paragraphs of the Judgment on Reparations:

a) To provide the Maya-Achí texts of the Judgment on Merits and the Judgment on Reparations and Costs to the victims and disseminate them in the Municipality of Rabinal, as provided for in Considering clauses Nos. 9 to 12 of this Order (*fourth operative paragraph of the Judgment on Reparations*); and

b) To make payment of the full amount of compensation for pecuniary and non-pecuniary damage ordered by the Court in its Judgment on Reparations for the benefit of the victims, pursuant to Considering Clause No. 41 of this Order (*tenth, eleventh, thirteenth, fourteenth and fifteenth operative paragraphs of the Judgment*).

3. That, in monitoring overall compliance with the Judgment rendered in the instant case and having analyzed the information provided by the State, the Commission and

the representatives, the Court shall keep open the procedure for monitoring compliance with those aspects that are still pending in the instant case, namely:

- a) Investigation, identification and possible punishment of the perpetrators and masterminds of the Plan de Sánchez Massacre (*first operative paragraph of the Judgment*);
- b) To publish the Proven Facts section of Chapter V, and the first to fourth operative paragraphs of the Judgment on Merits, and Chapter VII, Proven Facts, of the Judgment on Reparations and Costs, in Spanish, in a daily newspaper with national circulation. Also, to publish a translation of such paragraphs into the Maya-Achí language in the Official Gazette and in another newspaper of national circulation (*fifth operative paragraph of the Judgment*);
- c) To publicize the text of the American Convention in the Municipality of Rabinal, in Maya-Achí and Spanish (*fourth operative paragraph*);
- d) To pay the amount awarded in the Judgment for infrastructure maintenance and improvements at the memorial chapel (*sixth operative paragraph of the Judgment*);
- e) To provide free-of-charge medical and psychological treatment and medication to those victims who may so require (*seventh operative paragraph*);
- f) To provide adequate housing to those survivors of the village of Plan de Sánchez who may so require (*eighth operative paragraph*);
- g) To implement programs on the following issues 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 systems between the 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 of the Judgment on Reparations*); and
- h) To make payment of the amount of compensation awarded in the Judgment for pecuniary and non-pecuniary damage to those persons who were declared victims and have yet to receive full payment thereof, in accordance with Considering Clauses Nos. 37 and 42 of this Order (*tenth, eleventh, thirteenth, fourteenth and fifteenth operative paragraphs of the Judgment on Reparations*).

AND DECIDES:

1. To call upon the State to adopt all measures required to promptly and effectively comply with all pending aspects, 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, on November 24, 2008, a report stating all measures taken to comply with such reparations as were ordered by the Court and are still pending compliance and, specifically, providing the information requested by the Court, as stated in Considering Clauses Nos. 8, 12, 16, 20, 27, 33, 37 to 39 and 42 of this Order.

3. To request the representatives of the victims and the Inter-American Commission on Human Rights to submit their comments on the report of the State referred to in the preceding operative paragraph, within four and six weeks, respectively, of receipt of the aforementioned report. Moreover, the representatives' comments must include the information requested by this Court, as provided for in Considering Clauses Nos. 8, 12, 16, 20, 27, 37 to 39 and 42 of this Order.

4. To continue monitoring compliance with the pending paragraphs of the Judgment on Reparations and Costs of November 19, 2004.

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

Cecilia Medina Quiroga
President

Sergio García-Ramírez

Manuel E. Ventura-Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Cecilia Medina-Quiroga
President

Pablo Saavedra-Alessandri
Secretary