

**Order of the
Inter-American Court of Human Rights***
of January 22, 2009
Case of Blake v. Guatemala
(Monitoring Compliance with Judgment)

HAVING SEEN:

1. The Judgment on the merits rendered in the instant case by the Inter-American Court of Human Rights (hereinafter referred to as "the Court" or "the Inter-American Court") on January 24, 1998, whereby said Court declared that:

[...]

3. the State of Guatemala is obliged to make all means available to the Court so as to investigate the denounced facts and to punish those responsible for the disappearance and death of Mr. Nicholas Chapman-Blake.

[...]

2. The reparations Judgment rendered by the Court in the instant case, on January 22, 1999, whereby it decided:

[...]

2. To order the State of Guatemala to investigate the facts of the instant case, identify and punish the responsible parties and to adopt the necessary provisions at domestic level in order to guarantee compliance with this obligation (according to what is set forth in operative paragraph 3 of the judgment on the merits), which shall be informed to the Court, every six months, until the termination of the corresponding proceedings.

[...]

3. The Decision issued by the Inter-American Court on November 27, 2003 in the instant case.

4. The Decision rendered by the Inter-American Court on November 27, 2007, whereby it declared that:

1. [...] shall keep the proceedings of monitoring compliance with operative paragraph three of the Judgment on the merits issued on January 24, 1998 open, as well as of operative paragraph two of the reparations Judgment rendered on January 22, 1999, regarding the obligation to make all the means available to the Court in order to

* Judge Cecilia Medina-Quiroga informed the Court that she would not participate in the deliberation and signature hereof on grounds of force majeure.

investigate the denounced facts and –should it be the case- punish those responsible for the disappearance and death of Mr. Nicholas Chapman-Blake.

And Decid[ed]:

1. To request the State to adopt all the measures necessary to effectively and immediately comply with operative paragraphs of the Judgment on the merits and the reparations Judgment issued in the instant case, in accordance with the obligation set forth in Article 68(1) of the American Convention on Human Rights, which relates to all of the State powers and bodies as a whole.

5. The writs of April 3 and May 23, 2008, whereby the Republic of Guatemala (hereinafter referred to as “the State” or “Guatemala”) informed on the status of fulfillment of the Judgments rendered in the instant case (*supra* Having Seen Clauses No. 1 and 2).

6. The writ of July 11, 2008, whereby the Inter-American Commission on Human Rights (hereinafter referred to as “the Commission” or “the Inter-American Commission”) presented its observations to the Reports of the State (*supra* Having Seen Clause No. 5). The victims’ representatives (hereinafter referred to as “the representatives”) did not submit any observations to the reports of the State.

CONSIDERING:

1. That monitoring the fulfillment of the Court’s decisions is a power inherent to the jurisdictional functions of the Court.

2. That Guatemala is a State Party to the American Convention on Human Rights (hereinafter referred to as “the American Convention”) since May 25, 1978 and has acknowledged the Court’s jurisdiction on March 9, 1987.

3. That pursuant to Article 67 of the American Convention, the judgments of the Court must be immediately and totally complied with by the State.¹ Furthermore, Article 68(1) of the American Convention sets forth that “[the] States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.”

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¹ Cf. *Case of Baena Ricardo et al v. Panama*. Competence. Judgment of November 28, 2003, Series C, No. 104, para. 60; *Case of Claude Reyes et al v. Chile*. Monitoring compliance with Judgment. Order of November 24, 2008, Considering Clause No. 4; and, *Case of Bulacio v. Argentina*. Monitoring compliance with Judgment. Order of November 26, 2008, Considering Clause No. 4.

* *

4. That in its Order of November 27, 2007 (*supra* Having Seen Clause No. 3), the Court verified that the State convicted Mr. Vicente Cifuentes-López to serve 28 years of imprisonment, as one of the responsible parties for the disappearance and murder of Nicholas Chapman-Blake (*Operative paragraph one of the reparations Judgment of January 22, 1999*). However, the Court requested the State to submit detailed information as to the fulfillment of several arrest warrants pending on several persons for the facts of the instant case and it further requested the State to refer in a particular way to each of the objections exposed by the Inter-American Commission during the private hearing held in the instant case (Considering Clause 10 of the Order of November 27, 2007), as well as to the observations and recommendations presented by the victims in their writ of November 21, 2007. In that respect, the Court requested the State to submit the pertinent supporting documentation of the actions carried out.

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5. That the State informed that with regard to Mr. Hipólito Ramos-García, his arrest is pending "by an order against him issued by the Second Court of the First Instance of Huehuetenango, for the crime of Murder". It further informed that Mr. Ramos has not been located, reason for which there was a coordination with the elements of the *Delegación Distrital de Occidente* (Western District Precinct), with headquarters in Quetzaltenango, in order to locate him and arrest him, but that "to date the results have been negative." The State pointed out that, as a consequence of the above, it requested "Interpol Guatemala the location and preventive detention at international level and further deportation to [Guatemala] of Mr. Hipólito Ramos-García." As to the above, the State pointed out that the Public Prosecutor's Office confirmed the arrest warrant issued against Mr. Ramos and that said order has not been yet executed by the *Policía Nacional Civil* - PCN (Civil National Police). The State further informed that the arrest warrant against Mr. Mario Cano-Saucedo is still in force, which was issued "by the Second Court of the First Instance of Huehuetenango, on November 4, 1996. This warrant has been repeated by the Special Prosecutor of the Public Prosecutor's Office of Huehuetenango to the Chief of the Criminal Investigations Section of the Civil National Police of Huehuetenango on October 11, 2000". On the other hand, the State pointed out that there is also an arrest warrant against Mr. Candelario Cano-Herrera, "who is accused of the death of citizen Nicholas Chapman-Blake, and against whom there is an arrest warrant pursuant to a decision issued by the Second Court of the First Instance of Huehuetenango, on November 4, 1996" and that "the Public Prosecutor's Office repeated the arrest warrant on October 11, 2000 against [said] defendant, which is still in force." The state presented copies of the above mentioned proceedings. Finally, it informed that "with regard to the legal situation of Messrs. Daniel Velásquez, Ezequiel Alvarado and Emerito [*sic*] López, accused of the murder of Nicholas Chapman-Blake[, ...] arrest warrants were issued against [them] on July 7,

1995; however, they were detached from the proceedings by the Second Judge of the First Instance of Huehuetenango on the grounds of lack of evidence.”

6. That the representatives have not submitted observations to the reports of the State on the compliance with the Judgments (*supra* Having Seen Clause No. 6).

7. That the Inter-American Commission noticed that the information forwarded by the State regarding the arrest warrants “continues to be confusing” and that there are some inconsistencies “as to the names of said persons in the information [attached by the State] between the report of the Department Chief Office of the National Police of Huehuetenango of March 12, 1997 and the repetition on the part of the Public Prosecutor’s Office of October 11, 2000, which the State should clarify.” The Commission repeated its request for the “State to forward the pertinent documentation evidencing that there is an official of the Public Prosecutor’s Office at present in charge of the investigation [...].” It considered it necessary that the State, “through the pertinent authorities of the Public Prosecutor’s Office and the PCN [,] investigates all the other people who, pursuant to the facts considered proven in the Judgment rendered by the Court, could have participated in the facts.” Finally, the Commission stated that Guatemala has failed to inform on the concrete actions adopted by the Public Prosecutor’s Office or by the Civil National Police in order to ascertain the whereabouts of the people against whom there are pending arrest warrants.

8. That the arrest warrants against three possible responsible parties for the death and disappearance of Nicholas Chapman-Blake were issued in 1996 and to date they have not been effected by the domestic competent authorities. As to that, in its last reports (*supra* Having Seen Clause No. 4) the State has not shown any actions recently taken by the authorities in charge of the compliance of said arrest warrants. On the contrary, the measures informed by the State date from eight years. At the same time, Guatemala has not referred to each of the objections presented by the Inter-American Commission during the private hearing held in the instant case, nor to the observations and recommendations made by the victim’s next of kin in their writ of November 21, 2007 (*supra* Considering Clause No. 4).

9. That approximately twenty-three years have gone by since the occurrence of the facts of the instant case, and more than nine since the rendering of the Judgments on the merits, reparations and costs by the Court (*supra* Having Seen Clauses No. 1 and 2). Consequently, the Court notices with concern that, from the information contributed with by Guatemala, it cannot be concluded that the State has adopted the measures necessary to completely comply with what has been ordered by the Inter-American Court.

10. That the Court repeats to the State that by not investigating the forced disappearances and extrajudicial executions in the proper manner and by not effectively punishing the responsible parties, it violates its obligations to respect and guarantee the rights recognized by the Convention to the victim and his next of kin, it prevents society from knowing what happened and it reproduces the impunity

conditions for this type of facts to happen again.²

11. That, furthermore, the States Parties to the American Convention which have acknowledged the mandatory jurisdiction of the Court, have the obligation to comply with the obligations set forth by the Court. This obligation includes the duty of the State to inform on the measures adopted to comply with what has been ordered by the Court. The timely fulfillment of the State obligation to inform the Court on how it is complying with each one of the points ordered by said authority is critical to assess the status of compliance of the case.³ Said information must be detailed and updated, and must allow the Court to verify that the State is adopting the measures necessary to comply with the Court's judgments.

12. That pursuant to operative paragraph two of the Judgment on reparations (*supra* Having Seen Clause No. 2), the State must continue to inform the Inter-American Court on the concrete and detailed measures adopted to guarantee the compliance with the obligation to investigate the denounced facts in the instant case, try and, should it be the case, punish those responsible for the disappearance and death of Mr. Nicholas Chapman-Blake. The State shall submit the pertinent documentation, which supports the new actions effected.

13. That the Court shall consider the general status of compliance with the Judgments on the merits and reparations (*supra* Having Seen Clauses No. 1 and 2), once it receives the pertinent information regarding the only aspect pending compliance of said Judgments.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising its monitoring powers of 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, 25(1) and 30 of the Statute and 29(2) of its Rules of Procedure,

DECLARES:

² Cf. Case of *Myrna Mack Chang v. Guatemala. Merits, Reparations and Costs*. Judgment of November 25, 2003. Series C No. 101, para. 156; Case of the *Massacres of Ituango v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 1, 2006. Series C No. 148, para. 300; and Case of the *Rochela Massacre*, Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 163, para. 148.

³ Cf. Case of *Barrios Altos v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 2004, Considering Clause No. 7; Case of *Vargas Areco v. Paraguay*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of October 30, 2008, Considering Clause No. 7; and Case of *Bulacio v. Argentina*. Monitorin Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 26, 2008, Considering Clause No. 7.

1. That it shall keep open the proceedings of monitoring compliance with operative paragraph three of the Judgment on the merits rendered on January 24, 1998, as well as of operative paragraph two of the reparations Judgment issued on January 22, 1999, regarding the obligation to investigate the facts of the instant case, identify and, should it be the case, punish the responsible parties.

AND DECIDES:

1. To require the State to adopt all the measures necessary for the effective and immediate compliance with operative paragraphs of the Judgment on the merits and the reparations Judgment issued in the instant case, in accordance with the obligation set forth in Article 68(1) of the American Convention on Human Rights, which relates to all of the State powers and bodies as a whole.

2. To require the State of Guatemala to submit before the Inter-American Court of Human Rights, no later than August 14, 2009, a detailed report in which it indicates the measures adopted to comply with the Judgments rendered by this Court, in accordance with what has been pointed out in Considering Clauses No. 8 to 12 herein.

3. To require the State to continue to inform the Inter-American Court every six months on the measures adopted to guarantee the compliance with the orders issued by the Court, in accordance with Considering Clauses No. 8 to 11 herein.

4. To require the victims or their representatives –within the term of four weeks as from the notice of the report of the State- and the Inter-American Commission on Human Rights –within the term of six weeks as from the notice of the report of the State- to submit the observations they consider pertinent before the Inter-American Court of Human Rights.

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

Diego García-Sayán
President

Sergio García Ramírez

Manuel Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary