

Order of the
Inter-American Court of Human Rights
of July 6, 2009
Case of the Caracazo v. Venezuela
(Monitoring Compliance with Judgment)

HAVING SEEN:

1. The Judgment on the merits delivered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court" or "the Tribunal") on November 11, 1999.

2. The Judgment on reparations and costs (hereinafter "the Judgment") delivered by the Court on August 29, 2002.

3. The Order of the Court of November 17, 2004 on monitoring compliance with Judgment, wherein it considered, *inter alia*, that:

8. [...]he Court has verified that the State has complied with:

a) payment of compensation for pecuniary damages (*operative paragraph 6*), which comprises compensation for damages pertaining to expenses in burial services incurred by the next of kin of the twenty-three homicide victims whose bodies were delivered by the authorities (*operative paragraph 6(a)*); compensation for expenses incurred in searching for and finding the thirty-seven homicide victims and disappeared persons, in various public offices, and expenses caused or to be caused by medical treatment that the next of kin of said victims require or may require (*operative paragraph 6(b)*); compensation for damages pertaining to lost earnings regarding the thirty-seven homicide victims and disappeared persons (*operative paragraph 6(c)*); compensation for damages pertaining to expenses incurred or to be incurred for medical treatment and the purchase of the necessary means to alleviate the disabilities caused by the facts of the instant case to the three victims of violations of the right to humane treatment (*operative paragraph 6(d)*), and compensation for damages pertaining to lost earnings of the three victims of violations of the right to humane treatment (*operative paragraph 6(e)*);

b) the procedures ordered by the Court to pay the amounts set as compensation in operative paragraph 6 (*operative paragraph 7*);

c) payment of the amount set as compensation for non-pecuniary damages (*operative paragraph 8*), which includes compensation for the suffering caused by the facts of the instant case to the thirty-seven homicide victims and disappeared persons (*operative paragraph 8(a)*); compensation for the additional suffering caused by the facts of the instant case to each of the seven homicide victims who were minors at the time the facts occurred, an amount that will augment the sum stated in the foregoing subparagraph (*operative paragraph 8(b)*); compensation for the suffering caused by the facts of the instant case and by the supervening disability to the three victims of the violation of the right to humane treatment (*operative paragraph 8(c)*); compensation for the suffering caused by the facts of the instant case to the next of kin of the thirty-seven homicide victims and disappeared persons (*operative paragraph 8(d)*); compensation for the additional suffering caused by the facts of the instant case to the next of kin of the

fourteen homicide victims and disappeared persons whose mortal remains have not been delivered to their next of kin, an amount that will augment the sum stated in the foregoing subparagraph (*operative paragraph 8(e)*); compensation for non-pecuniary damages pertaining to the violation of the rights to a fair trial, due process and access to effective recourse of the next of kin of the thirty-seven homicide victims and disappeared persons (*operative paragraph 8(f)*); compensation for non-pecuniary damages pertaining to the violation of the rights to a fair trial, due process and access to effective recourse of the next of kin of the four persons who lost their lives within the context of the facts of the instant case, but whose death was not attributed to the State in the Judgment on the merits as there was no acknowledgement of responsibility for them by the State (*operative paragraph 8(g)*); and compensation for the non-pecuniary damages pertaining to the violation of the rights to a fair trial, due process and access to effective recourse of the three victims of the violation of the right to humane treatment (*operative paragraph 8(h)*);

d) the procedures ordered by the Court to pay the amounts set as compensation in operative paragraph 8 (*operative paragraph 9*);

e) payment to the *Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo de 1989* [COFAVIC] of the amount set as reimbursement for costs and expenses incurred in proceedings under the domestic jurisdiction and before the Inter-American system and to cover expenses to be incurred in future proceedings pertaining to compliance with the [...] Judgment (*operative paragraph 10*), and

f) publication, within a reasonable period, in the Official Gazette and in a widely read national daily of Chapter I, Introduction of the Case, paragraph 1, subparagraphs a), b), c), d), e), f) and (a) and the operative points included in Chapter VII of the Judgment on the merits and paragraphs 66 to 66(16) of the Judgment on reparations (*operative paragraph 5*).

9. [...]he Court not[ed] that it did not hav[e] sufficient information on the following points pending compliance:

a) the steps taken in connection with the investigation, identification and administrative and criminal punishment of those responsible for the facts, under the terms set forth in the Judgment (*operative paragraph 1*);

b) the steps taken in order to find, exhume, identify and deliver to their next of kin the mortal remains of some of the victims (*operative paragraph 2*);

c) had some of the victims been exhumed, whether the State has paid for the costs of burial of the mortal remains of the persons referred to in operative paragraph two, in the place chosen by their next of kin (*operative paragraph 3*);

d) the adoption of the necessary steps to avoid repetition of the facts and circumstances of the instant case (*operative paragraph 4, subparagraphs a), b) and c)*, and

e) payment of costs and expenses in favor of the Center for Justice and International Law (CEJIL) (*operative paragraph 10*).

10. [...]he Court will consid[er] the general progress in compliance with its Judgment on reparations, as well as with this Order, once it has receiv[ed] the relevant information on the measures pending compliance [, and declared that:]

1. [...] the State has complied with payment of the amounts set as compensation for pecuniary and non-pecuniary damages (*operative paragraphs 6, 7, 8 and 9 of the Judgment on reparations delivered by this Court on August 29, 2002*); payment of costs and expenses in favor of the *Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo de 1989* [COFAVIC] (*operative paragraph 10 of the Judgment on reparations rendered by this Court on August 29, 2002*), and with the publication of the parts of the Judgments on the merits and on reparations rendered in the instant case (*operative paragraph 5 of the Judgment on reparations rendered by this Court on August 29, 2002*) [...].

2. [...] it will keep open the proceedings for monitoring compliance with the measures pending fulfillment in the instant case, as specified in Considering clause 9,

subparagraphs a), b), c), d) and e) of the [...] Order.

[...]

4. The briefs of the Bolivarian Republic of Venezuela (hereinafter "the State" or "Venezuela") of May 6 and December 5, 2005, and of June 4 and September 16, 2008, whereby it forwarded information on monitoring compliance with the Judgment.

5. The briefs of the victims' representatives (hereinafter "the representatives") of June 6, 2005; January 26, 2006; and July 25 and November 3, 2008; whereby they forwarded their observations on monitoring compliance with the Judgment.

6. The briefs of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of June 21, 2005; February 20, 2006; and August 1 and December 31, 2008; whereby it forwarded its observations on monitoring compliance with the Judgment.

7. The notes of the Secretariat of the Court (hereinafter "the Secretariat") of July 19, 2005 and November 5, 2006, whereby it requested the State, *inter alia*, to submit detailed information on the steps taken in order to comply with the measures pending fulfillment, to wit: i) the progress made as regards the investigation, identification and punishment, if applicable, of those responsible for the facts, ii) the location, exhumation and identification of the mortal remains of some of the victims, and iii) the obligation to take the necessary steps to avoid the repetition of the facts and circumstances of the instant case by training and educating the members of the Armed Forces and security agencies in human rights, the adjustment of operational plans designed to deal with public disturbances to the requirements of respect for human rights and to guarantee that physical means will only be only used where they are strictly necessary to control such situations, with respect for the right to life and humane treatment.

8. The communication of the Secretariat of August 5, 2008, whereby it requested the representatives to clarify its position to the Court regarding the payment due by the State as reimbursement for costs and expenses, since by means of the brief of June 6, 2005, the representatives pointed out that the State had made the payment due to the Center for Justice and International Law (CEJIL) through a bank transfer and later, in their brief of July 25, 2008 they stated that compliance had been partial and that the payment had been made to *Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo de 1989* [COFAVIC].

9. The brief of the Secretariat of September 25, 2008, whereby it requested the State to submit detailed and accurate information on the steps taken in compliance with operative paragraph 4, subparagraphs a), b) and c) of the Judgment rendered on August 29, 2002 (*supra* Having Seen clause 2), as it had made no reference thereto. Furthermore, it requested the representatives and the Commission to submit detailed information on each measure pending compliance, in accordance with the provisions of Considering clause 9 and operative paragraph 2 of the Order of the Court of November 17, 2004 (*supra* Having Seen clause 3).

10. The Order of the President of the Court of May 20, 2009, whereby she summoned the State, the representatives and the Inter-American Commission to a private hearing to be held on July 4, 2009, in relation to monitoring compliance with the Judgment rendered on August 29, 2002 in the case of the Caracazo.

11. The private hearing held on July 4, 2009 at the Court venue.¹ At such private hearing, the State, the Commission, and the representatives referred to the measures pending compliance with the Judgment.

CONSIDERING:

1. That it is a power inherent in the judicial functions of the Court to monitor compliance with its judgments.

2. That Venezuela has been a State Party to the American Convention on Human Rights since August 9, 1977 and it acknowledged the binding jurisdiction of the Court on June 24, 1981.

3. That pursuant to Article 68(1) of the American Convention, “[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.” To that end, the States are required to guarantee the adoption at the domestic level of the measures ordered by the Court.²

4. That given the final and unappealable nature of the Court’s judgments, as established in Article 67 of the American Convention, said judgments are to be promptly and fully complied with by the State.

5. That the obligation to comply with the Court’s judgments conforms to a basic tenet of the law of the international responsibility of the States, as supported by international case law, under which the 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, domestic laws may not be invoked to justify non-fulfillment of pre-established international responsibility. The treaty obligations of States Parties are binding on all State powers and organs.³

¹ Pursuant to Article 6(2) of the existing Rules of Procedure, the Court held a hearing with a commission of Judges made up of Cecilia Medina-Quiroga, President; Manuel E. Ventura-Robles; Leonardo A. Franco and Margarete May Macaulay. At said hearing there appeared Juan Pablo Albán on behalf of the Inter-American Commission; Lilibian Ortega and Carlos Ayala-Corao, from the *Comité de Familiares de Víctimas de los Sucesos de Febrero-Marzo de 1989* (COFAVIC), and Ariela Peralta, from the Center for Justice and International Law (CEJIL), on behalf of the victims’ representatives; and Germán Saltrón-Negretti on behalf of the State.

² Cf. *Case of Baena-Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of Cantoral-Huamani and García-Santa Cruz v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of April 28, 2009, Considering clause 3; and *Case of Chaparro-Álvarez and Lapo-Íñiguez v. Ecuador. Monitoring Compliance with Judgment*. Order of the Court of April 29, 2009, Considering clause 3.

³ 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 Cantoral-Huamani and García-Santa Cruz v. Peru. Monitoring Compliance with Judgment*, *supra* note 1, Considering clause 5; and *Case of Chaparro-Álvarez and Lapo-Íñiguez v. Ecuador. Monitoring Compliance with Judgment*, *supra* note 1, Considering clause 5.

6. That the States Parties to the American Convention are required to guarantee compliance with the provisions thereof and secure their effects (*effet utile*) at the domestic law level. This principle applies not only in connection with the substantive provisions of human rights treaties (i.e. those dealing with the protected rights), but also in connection with procedural rules, such as those concerning compliance with the decisions of the Court. Such 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.⁴

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7. That in its Order of November 17, 2004, the Court urged the State to take all necessary steps to fully and promptly complied with the measures pending compliance and, to that end, it deemed it essential to keep open the proceedings for monitoring compliance with its Judgment (*supra* Having Seen clause 3).

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8. That in relation to operative paragraph one of the Judgment regarding the investigation, identification and, if applicable, punishment of those responsible for the facts, the State submitted information on the investigations conducted in the Caracazo proceedings and pointed out that most of them were expedited in 2001. Specifically, it referred to the adoption of various steps in the different criminal proceedings, such as, *inter alia*, the criminal charges brought (in both cases), the requests for information regarding the preliminary and investigative stages of the proceedings, the remittance of official letters to State agencies, the remittance of medical and dental histories, the service of summonses to the victims' next of kin and to the witnesses, an arrest warrant, the meetings held with the victims' next of kin and with the witnesses and the request for elements such as photographs and medical histories to the victims' next of kin. Furthermore, it pointed out that the Public Prosecutors' Offices commissioned to investigate, proceeded with the pertinent investigations. At the private hearing, the State did not refer to any further progress in the investigations regarding these cases, but reaffirmed its commitment to advance towards achieving it. Besides, regarding a case in which in 2006 the Chamber on Constitutional Matters of the Supreme Court of Justice (hereinafter the "Constitutional Chamber")⁵ ratified the discontinuance of the case on

⁴ Cf. *Case of Ivcher-Bronstein v. Peru. Competence. Judgment of September 24, 1999*. Series C No. 54, para. 37; *Case of Cantoral-Huamani and García-Santa Cruz v. Peru. Monitoring Compliance with Judgment*, *supra* note 1, Considering clause 6; and *Case of Chaparro-Alvarez and Lapo-Íñiguez v. Ecuador. Monitoring Compliance with Judgment*, *supra* note 1, Considering clause 6.

⁵ In said Judgment, the Chamber on Constitutional Matters of the Supreme Court of Justice in its relevant parts "revok[ed] the Judgment of August 13, 2004, rendered by Chamber N° 10 of the Court of Appeals of Caracas Metropolitan Area Criminal Judicial Circuit, which admitted the appeal filed against the Judgment of July 16, 2004, delivered by the Thirty-third Control Court of the First Instance of the same Criminal Judicial Circuit, which declared the discontinuance of the criminal proceeding brought by citizen Pedro Colmenares-Gómez."

account of the statute of limitations, it undertook to adopt the necessary measures so that the competent body might seek proper recourse.

9. That the representatives pointed out that there had been no substantial changes in the legal situation of the cases pertaining to the Caracazo, wherefore impunity still prevails six years after Judgment was rendered and almost twenty years after the occurrence of the facts of the instant case. In this regard, they pointed out that among the 45 cases pertaining to the Caracazo which were referred to the Court, only two had proceeded beyond the investigation stage into public oral proceedings. The other 43 cases were still in the investigation stage after sixteen years. In none of the above cases a condemnatory judgment against those responsible for the facts had been rendered. Quite the opposite, the representatives informed that in one of the two cases that had proceeded into public oral proceedings, in 2006 the Constitutional Chamber had confirmed the discontinuance of the proceedings on account of the statute of limitations. At the private hearing, the representatives reiterated that 98 percent of the cases had not proceeded beyond the investigation stage and that the victims' next of kin had not been heard.

10. That the Commission noted that said obligation had not been complied with, as the State had not taken any concrete steps aimed to determine the truth; rather, it had merely kept the criminal proceedings open without any substantial progress being achieved. In this regard, at the private hearing, the Commission reiterated that no progress had been made in the investigations and referred to the judgment in which the Constitutional Chamber declared the discontinuance of the proceedings on account of the statute of limitations.

11. That regarding the obligation to investigate serious violations of human rights such as extra-judicial executions and forced disappearance of persons, the Court has repeatedly established that it is a duty of the State to be fulfilled pursuant to the international standards set by international rules and decisions. In prior cases, the Court has ruled that the obligation of the State to investigate and, if applicable, punish those responsible for the facts, is to be diligently complied with in order to avoid impunity and the repetition of facts such as the ones described in the instant case.⁶ Specifically, the Court has upheld that "[...] in compliance with its obligation to investigate and, if applicable, punish those responsible for the facts, the State must remove all obstacles, both factual and legal, contributing to impunity and use all available means to expedite the investigation and the relevant proceedings [...]."⁷ Furthermore, it pointed out that the State must guarantee to the disappeared victims' next of kin the availability of the necessary means for their effective participation in the investigation and judicial proceeding of the case.⁸

⁶ *Case of the Ituango Massacres v. Colombia. Preliminary Objection, Merits, Reparations and Costs.* Judgment of July 1, 2006. Series C No. 148, para. 402; *Case of Valle-Jaramillo et al. v. Colombia. Merits, Reparations and Costs.* Judgment of November 27, 2008. Series C No. 192, para. 100; and *Case of Blake v. Guatemala. Monitoring Compliance with Judgment.* Order of the Court of January 22, 2009, Considering clause 10.

⁷ *Case of La Cantuta v. Peru. Merits, Reparations and Costs.* Judgment of November 29, 2006. Series C No. 173, para. 226; *Case of Goiburú et al. v. Paraguay. Monitoring Compliance with Judgment.* Order of the Court of August 6, 2008, Considering clause 15; and *Case of Castillo-Páez v. Peru. Monitoring Compliance with Judgment.* Order of the Court of April 3, 2009, Considering clause 13.

⁸ *Case of Castillo-Páez v. Peru, supra* note 7, Considering clause 13.

12. That in paragraph 119 of the above-mentioned Judgment on reparations rendered in the instant case, the Court pointed out that “[t]he public officials and private individuals who hamper, divert or unduly delay investigations tending to clarify the truth of the facts, shall be punished, rigorously applying in this regard the provisions of domestic legislation.”

13. That taking into consideration the allegations made by the State both in its reports and at the hearing, and the allegations made by the representatives and the Commission, both in their observations and at the private hearing, the Court notes that the delay and lack of procedural activity in most of the proceedings are evident, as the State has not achieved any progress in the investigations since 2002-2003 approximately. Therefore, the State has not proven that the facts of the case are being investigated through the criminal proceedings started in 2001 or through any other appropriate means as it should, pursuant to the applicable international rules and standards (*supra* Considering clauses 11 and 12).

14. That, therefore, the Court considers it essential to require the State to provide detailed information on the steps and procedures taken and to submit a working plan on the actions to be taken in order to comply with the obligation to investigate, identify and, if applicable, punish those responsible for the facts of the Caracazo.

15. That, in addition, paragraph 119 of the above-mentioned Judgment on reparations rendered in the instant case, sets forth that “[th]e State must ensure that domestic proceedings directed toward the investigation and the [eventual] punishment of those responsible for the facts in this case have the desired effects and, specifically, must not resort to measures such as amnesty, discontinuance and measures designed to eliminate responsibility.” In this regard, the Court referred to its decision in the case of *Barrios Altos* and pointed out that:

[...] all amnesty provisions, provisions on statutes of limitation and the adoption of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as [...] torture; extra-judicial, summary or arbitrary execution; and forced disappearance, all of them prohibited as they violate non-derogable rights recognized by International Human Rights Law [...].

16. That, the Court further recalls that the Political Constitution of the Bolivarian Republic of Venezuela itself in its Article 29 sets forth the inapplicability of statutes of limitations in the case of serious violations of human rights, under the following terms:

The State is obliged to investigate and legally punish offenses against human rights committed by its authorities.

Actions to punish the offense of violating human rights and war crimes shall not be subject to statutes of limitations.⁹

⁹ Political Constitution of the Bolivarian Republic of Venezuela.

17. That, furthermore, in its prior cases the Court has established that where serious violations of human rights have been committed, the State may not invoke statutes of limitations or any other measures intended to exclude its responsibility for its obligations.¹⁰

18. That in view of the statements made by the State, the representatives and the Commission at the private hearing, the Court has verified that in one of the proceedings, in 2006 the Constitutional Chamber confirmed the discontinuance of the criminal proceedings (*supra* Considering clauses 9 and 10) and according to its prior decisions over this matter, the Court taking into consideration that the State undertook to take the necessary steps so that the domestic competent organs may seek proper recourse, deems that the State must submit detailed and up-to-date information in that regard.

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19. That regarding operative paragraph two of the Judgment, in connection with the exhumation and identification of the victims' mortal remains and their delivery to their next of kin, the State pointed out that an DNA record of the victims' next of kin was kept, but only one person appeared in order to fill in a form and have the pertinent tests done. It further informed that visual inspections had been conducted in north sectors 5 and 6 of *Cementerio General del Sur* [cemetery]. Three bodies were located and identified, which lay at the headquarters of the Department of Forensic Medicine of the Scientific, Penal and Criminal Investigation Corps [*Medicatura Forense del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas*], wherefore the publication of notices on the press is being coordinated in order to summon the victims' next of kin in connection with the delivery of the bodies. Finally, several meetings have been held with the Department of Forensic Medicine of the Scientific, Penal, and Criminal Investigation Corps in order to set the procedures to be adopted so that the remains that are still in the niches of *Cementerio General del Sur* may be found and identified. In this regard, at the private hearing, the State did not submit any new information, but referred to the difficulties it has in complying with this measure.

20. That the representatives pointed out that the victims' next of kin have not had access to reliable information on the facts and on the disappeared persons, nor to the remains of their relatives. Additionally, they requested more detailed information on the meetings held with officials of the Department of Forensic Medicine and the officials who were involved with the burials. They denied having been notified of the project regarding the DNA record and informed that the victims' next of kin refused to receive their relatives' bones if they had not been the object of exhaustive expert reports, which is why they requested that the State retain the services of the Argentine Forensic Anthropology Team [*Equipo Argentino de Antropología Forense*], on the grounds that the Venezuelan Legal Medicine Institute [*Instituto de Medicina Legal Venezolano*] "is not qualified to conduct such a complex task." In this regard, at the private hearing, the representatives reiterated their statements and requested that the State submit a

¹⁰ Cf. *Case of Barrios Altos v. Peru. Merits. Judgment of March 14, 2001*. Series C No. 75, para. 41; *Case of the Gómez-Paquiayauri Brothers v. Peru. Monitoring Compliance with Judgment*. Order of the Court of May 3, 2008, Considering clause 13; and *Case of Ticona-Estrada et al. v. Bolivia. Merits, Reparations and Costs*. Judgment of November 27, 2008. Series C No. 191, para. 147.

working plan with a schedule of the steps to be taken in order to comply with this obligation.

21. That the Commission noted that the State has not submitted information which allows concluding that concrete steps have been taken in order to comply with said obligation, as only three families out of the families of 437 victims have been able to identify the remains of their beloved ones. In turn, the Commission considered it relevant that the steps be taken by a group of impartial and qualified specialized experts, and that the State inform the victims' next of kin about the DNA record. At the private hearing, the Commission reiterated its prior statements and agreed with the representatives' request that the State submit a working plan with a schedule of the steps to be taken in order to proceed towards the exhumations.

22. That in view of the information submitted by the State and the arguments of the representatives and the Commission, the Court notes that the State should make efforts to set in motion the exhumation of the bodies in coordination with the victims. Therefore, the Court deems it essential that the State submit up-to-date information on the steps taken in order to exhume, identify and deliver the victims' bodies to their next of kin, as well as a working plan containing a schedule of the steps to be taken in order to comply with the measure ordered in operative paragraph two.

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23. That regarding operative paragraph three of the Judgment concerning the obligation of the State to pay for the expenses arising from the exhumations, the State has not submitted any information.

24. That the representatives pointed out that since no exhumations have been made, it is evident that the obligation of the State to pay for the expenses arising therefrom has not been complied with.

25. That the Commission noted that, as operative paragraph two has not been complied with, compliance with said obligation is not possible.

26. That taking into account the arguments of the representatives and of the Commission, the Court considers that it should not rule on compliance with this operative paragraph in this Order. Notwithstanding, the Court reiterates the State's obligation to pay for the expenses arising from the exhumations, in accordance with operative paragraph three of the Judgment.

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27. That regarding operative paragraph four, subparagraphs a), b) and c) of the Judgment in relation to the adoption of the necessary steps to avoid repetition of the facts and circumstances of the instant case (among others, the training and education of

all members of the Armed Forces and security agencies in the principles and provisions for the protection of human rights and the adjustment of operational plans to deal with public disturbances to the requirements of respect for and protection of human rights), the State informed that various training and education activities regarding human rights have been carried out, among them, forums, workshops, seminars and academic programs addressed to public prosecutors, police officers, the penitentiary system staff members, officials of the Scientific, Penal and Criminal Investigation Corps, civilian members of security agencies, as well as the victims of the *Guarimbas* and claimants of human rights violations, among others. In this regard, the State did not submit any new information at the private hearing.

28. That the representatives pointed out that they had no information about the implementation of an education program in human rights designed for security forces, nor about the adjustment of operational plans to deal with public disturbances. Therefore, they requested that the State be required to submit detailed and accurate information on the steps taken. In this regard, at the private hearing, the representatives pointed out that no progress had been made in compliance with this obligation and further highlighted the need to focus training and education programs on the use of force, the use of firearms, and the design of operational plans.

29. That the Commission noted that said obligation is still pending compliance, as it considers it relevant that the State submit information specifying the measures adopted and setting clear and accurate guidelines for the officials responsible for the use of force in public disturbances. Furthermore, it took cognizance of the information submitted by the State, but observed that in order that the measures regarding training and education of public agents may be effective, these must be permanent and institutionalized. At the private hearing, the Commission reiterated its arguments as put forward in its written observations and highlighted the points on which training programs for the members of the armed forces and securities agencies should focus, in agreement with the observations submitted by the representatives.

30. That in view of the parties' statements, the Court notes that the State has submitted information regarding a number of training and education activities and workshops, aimed at different public and private parties. Notwithstanding, it has not submitted information on training and education activities specifically aimed at the *members of its armed forces and security agencies*, nor on the adjustment of its operational action plans, as required by the Judgment. Therefore, the Court deems it essential that the State submit information on the steps taken and to be taken in order to train and educate said officials in the above-mentioned subjects and to adjust its operational plans in order to comply with the measured ordered in operative point four.

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31. That regarding operative paragraph ten of the Judgment on payment of costs and expenses in favor of the Center for Justice and International Law (CEJIL), in May 2005 the State informed that it was being processed before the Ministry of Finance. After said date, the State has made no reference to this matter.

32. That the representatives informed that the State had paid CEJIL the amount set as reimbursement of costs and expenses by means of a bank transfer made on November 6, 2004. Notwithstanding, they argued that the payment of the State had been partial, as it had been made through a payment order issued in favor of COFAVIC. Finally, in response to the request of the Secretariat for a clarification regarding the payment by the State of costs and expenses (*supra* Having Seen 8), by means of their brief of August 11, 2008, the representatives argued that such obligation had been fully complied with by the State.

33. That the Commission noted that the State had fully complied with said obligation, as the State paid the amount due to CEJIL by means of a bank transfer made on November 6, 2004.

34. That in view of the arguments of the State and the observations of the representatives and of the Commission, the Court considers that the parties agree that the State has made the payment due to CEJIL as reimbursement of costs and expenses. Therefore, the Court considers that the State has fully complied with the measure ordered in operative paragraph ten of the Judgment.

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35. That at the private hearing, the State agreed to the proposal made by the representatives as to the need to draw up a working plan to fix specific terms for compliance with the operative paragraphs pending fulfillment, particularly, regarding the progress achieved in the investigation, the exhumation of the victims and training and education of the armed forces and security agencies in the matters listed above. Furthermore, regarding a case in which in 2006 the Constitutional Chamber confirmed the discontinuance of the criminal proceedings on account of the statute of limitations, the State undertook to adopt all necessary measures so that the domestic competent organs may seek proper recourse.

36. That in view of the information submitted regarding the private hearing and in consideration of the commitment undertaken by the State, the Court considers it essential that Venezuela submit detailed, accurate and complete information regarding the measures adopted so far, in addition to a working plan containing a schedule of the steps and actions planned in order to comply with the measures ordered in operative paragraphs one, two and four of the Judgment (*supra* Considering clauses 14, 22 and 30). Lastly, regarding the case in which in 2006 the Constitutional Chamber confirmed the discontinuance of the criminal proceedings on account of the statute of limitations (*supra* Considering clauses 8 to 10 and 16), the State shall inform on the necessary steps that have been adopted so that the domestic competent organs may seek proper recourse.

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37. That the Court will consider the general status in compliance with the Judgment (*supra* Having Seen 2) once it has received the pertinent information on the measures pending fulfillment.

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, 25(1) and 30 of its Statute, and 30(2) of its Rules of Procedure,

DECLARES:

1. That in accordance with Considering clause 34 of this Order, the State has complied with the following obligations:

a) [...] pay to the Center for Justice and International Law (CEJIL), under the terms of paragraph 132 of the Judgment, the amount set as reimbursement of costs and expenses incurred in connection with proceedings brought under the domestic jurisdiction and before the Inter-American system [...] (*operative paragraph ten of the Judgment*).

2. That it will keep open the proceedings to monitor compliance with the following measures pending fulfillment, to wit:

a) [...] conduct, under the terms of paragraphs 118 to 120 of the [...] Judgment, an effective investigation into the facts of the instant case, identify those responsible for them, both perpetrators and instigators, as well as any possible accessories after the fact, and, [if applicable], punish them administratively and criminally, as appropriate; to allow the victims' next of kin and the surviving victims to have full access and power to act at all stages and in all proceedings of said investigations, in accordance with the domestic legislation and the provisions of the Inter-American Convention on Human Rights; and to make the results of said investigations known to the public (*operative paragraph one of the Judgment*);

b) [...] locate, exhume, and identify by means of suitable techniques and instruments the mortal remains of the victims, and deliver them to the victims' next of kin, under the terms of paragraphs 121 and 124 to 126 of the [...] Judgment (*operative paragraph two of the Judgment*);

c) that the costs of the burial of the mortal remains of the victims mentioned in operative paragraph [two] in the place chosen by their next of kin shall be born by the State, under the terms of paragraph 124 of the [...] Judgment (*operative paragraph three of the Judgment*), and

d) [...] adopt all necessary steps to avoid repetition of the facts and circumstances of the instant case, under the terms of paragraph 127 of the [...] Judgment, pursuant to which it shall,

[i)] adopt the necessary measures to train and educate all members of its armed forces and security agencies in the principles and rules regarding respect for and protection of human rights and in the restrictions on the use of firearms by enforcement authorities, even in exceptional circumstances;

[ii)] adjust its operational plans to deal with public disturbances to the requirements of respect for and protection of said rights, and to that end adopt, *inter alia*, measures aimed at controlling the actions of all members of security forces in the place where the events occur in order to prevent any possible excess; and

[iii)] guarantee that, where necessary to resort to the use of physical means to deal with public disturbances, the members of the armed and security forces will use only those which are indispensable to control such situations in a rational and proportionate manner, respecting the right to life and to humane treatment (*operative paragraph four of the Judgment*).

AND DECIDES:

1. To call upon the State to take all such steps as may be necessary to briefly and fully comply with the measures ordered by the Court in the Judgment on reparations and costs of August 29, 2002 which are pending fulfillment, 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, no later than October 15, 2009, detailed, complete and up-to-date information regarding the steps taken so far, in addition to a working plan containing a schedule of the steps and actions planned to comply with the measures ordered in the Judgment, particularly, the progress achieved regarding the investigations, the exhumations of the victims and the training and education of the member of the armed and security forces, as established in Considering clauses 14 to 18, 22 and 30 of this Order. Lastly, regarding the case in which in 2006 the Constitutional Chamber confirmed the discontinuance of the criminal proceedings on account of the statute of limitations, as established in Considering clauses 8 to 10 and 18, the State must submit a report on the necessary steps taken so that the domestic competent organs may seek proper recourse, as established in Considering clauses 18 and 35 of this Order.

3. To request the victims' representatives and the Inter-American Commission on Human Rights to submit the observations they deem relevant on the State's report referred to in the foregoing operative paragraph, within four and six weeks, respectively, of the date said report has been received.

4. To continue monitoring the measures pending compliance with the Judgment on reparations and costs of August 29, 2002.

5. To notify this Order to the State, to the Inter-American Commission on Human Rights and to the victims' representatives.

Cecilia Medina-Quiroga
President

Diego García-Sayán

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