

**Order of the
Inter-American Court of Human Rights
of February 3, 2010
Case of Las Palmeras v. Colombia
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on merits delivered by the Inter-American Court of Human Rights (hereinafter, "the Court," "the Inter-American Court" or "the Tribunal") on December 6, 2001.
2. The Judgment on reparations rendered by the Inter-American Court on November 26, 2002.
3. The Orders of the Court of November 17, 2004 and August 4, 2008. In the latter Order, the Tribunal declared, *inter alia*:

[...]

3. That it will keep open the procedure to monitor the items that are still pending compliance, to wit:
 - a) Steps taken to investigate the facts of the instant case [...] and publish the results of the proceedings (*[O]perative [p]aragraph one of the Judgment on reparations of November 26, 2002*), and
 - b) Necessary steps to identify N.N./Moisés, within a reasonable time, to locate, exhume and deliver his remains to his next of kin, and to pay said next of kin the amount owed by the State (*[O]perative paragraphs two and five of the Judgment on reparations of November 26, 2002*).
4. The brief of January 8, 2009, whereby the Republic of Colombia (hereinafter, "the State" or "Colombia") reported on compliance with the Judgment on reparations (*supra* Having Seen clause No. 2).
5. The letters of January 12 and March 17, 2009, whereby the Secretariat of the Court asked the representatives of the victims (hereinafter, "the representatives") and the Inter-American Commission on Human Rights (hereinafter, "the Commission" or "the Inter-American Commission") to submit their observations to the State's report (*supra* Having Seen clause No. 4). Said observations are yet to be received.
6. The Order issued by the President of the Court (hereinafter, "the President") on December 7, 2009, whereby she asked the State, the representatives and the Inter-American Commission to a private hearing to obtain information from the State

regarding compliance with the Judgment on reparations (*supra* Having Seen clause No. 2) and hear the Inter-American Commission's and the representatives' comments thereon.

7. The private hearing held by the Court at the Court's seat in San José, Costa Rica, on January 29, 2010.¹

CONSIDERING:

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

2. That Colombia has been a State Party to the American Convention on Human Rights (hereinafter, the "American Convention") since July 31, 1973, and that it recognized the contentious jurisdiction of the Court on June 21, 1985.

3. That Article 68(1) of the American Convention provides that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." That the State Parties' obligations under the Convention bind all State branches and organs.²

4. That, given the final and not-subject-to-appeal nature of the Court's judgments as established in Article 67 of the Convention, said judgments are to be promptly and fully complied with by the State.

5. That the obligation to comply with the rulings of the Court conforms to 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

¹ In accordance with Article 6(2) of the Rules of Procedure, to hold the hearing the Court used a commission of judges comprised of: Judge Diego García-Sayán, Judge Leonardo A. Franco and Judge Alberto Pérez-Pérez. The hearing was attended by: (a) on behalf of the Inter-American Commission: Lilly Ching, Specialist Attorney of the Executive Secretariat; (b) on behalf of the victims' representatives: Luz Marina Monzón-Cifuentes, Viviana Rodríguez-Peña and Oscar Javier Carbonell-Valderrama, from *Comisión Colombiana de Juristas* [Colombian Commission of Jurists], and (c) on behalf of the State of Colombia: Carlos Franco Echavarría, Director of the Presidential Human Rights Program; Ángela Margarita Rey, Human Rights and International Humanitarian Law Director at the Ministry of Foreign Affairs; Felipe Medina, Coordinator of the Inter-Institutional Operational Team; Nidia Duque, Advisor to the Inter-Institutional Operational Team; Brigadier General Jorge Rodríguez-Clavijo, Head of Human Rights at the National Army; Colonel Efraín Aragón-Sánchez, Human Rights and International Humanitarian Law Advisor; Lieutenant Colonel John Henry Arango-Alzate, Head of Human Rights at the National Police Department; Edith Claudia Hernández-Aguilar, Human Rights Advisor at the Ministry of Defense; Oswaldo Ramos-Arrendó, Head of the Legal Office of the Administrative Department of Security – DAS, and Juliana Bustamante, Human Rights Advisor at DAS.

² Cf. *Case of Baena-Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003, Series C No. 104, para. 60; *Case of La Cantuta v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 20, 2009, Considering clause No. 5, and *Case of Cantoral-Benavides v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 20, 2009, Considering clause No. 5.

of Treaties of 1969, States cannot invoke their municipal laws to escape their pre-established international responsibility.³

6. That the States Parties to the Convention are required to guarantee compliance with the provisions thereof and their effects (*effet utile*) at the domestic-law level. This principle is applicable with regard not only to the substantive provisions of human rights treaties (that is, those dealing with protected rights), but also to their procedural rules, such as those concerning compliance with the decisions of the Court. These obligations are to be interpreted and applied 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, regarding the steps taken to complete the investigations into the facts of the instant case and publish the results of the proceedings (*first Operative paragraph of the Judgment on reparations of November 26, 2002*), the Court will discuss three specific issues, namely: the enforcement of the arrest warrants that are still outstanding; the publication of the results of the proceedings, and the reopening of the investigations that had been closed due to the statute of limitations, as well as the application of the concept of *estoppel* to one of the investigations initiated in the instant case.

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8. That, regarding the enforcement of the convictions, the State expressed that the Criminal Chamber of the Supreme Court “disallowed the *demandas de casación* [appeals for reversal]” filed by the defendants in the domestic criminal proceedings, with the judgment rendered by the Criminal Chamber of the Superior Court of the Judicial District of Bogotá on March 31, 2006 thus becoming final.⁵ Furthermore, it

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 the Five Pensioners v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 24, 2009, Considering clause No. 6, and *Case of Ivcher-Bronstein v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 24, 2009, Considering clause No. 5.

⁴ Cf. *Case of Ivcher-Bronstein v. Peru. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of the Five Pensioners*, *supra* note 3, Considering clause No. 7, and *Case of Ivcher-Bronstein*, *supra* note 3, Considering clause No. 6.

⁵ In accordance with Considering clause No. 11 of the Order of August 4, 2008, issued by this Tribunal at the monitoring compliance stage of the instant case, “the Criminal Chamber of the Superior Court of the Judicial District of Bogotá, in [its] judgment of March 31, 2006” decided to modify the operative portion of the appealed judgment to sentence Antonio Alonso-Martinez to 26 years and 9 months in prison as the co-perpetrator of the aggravated murders of Hernán Javier Cuarán-Muchavisoy, Julio Milciades Cerón-Gómez, Edebrades Norberto, William Hamilton-Cerón, Artemio Pantoja-Ordóñez, and NN/Moisés; to reverse the acquittal of and convict and sentence Jaime Alberto Peña-Casas, in his capacity as guarantor, to 24 years in prison for the murders of Hernán Javier Cuarán-Muchavisoy, Julio Milciades Cerón-Gómez, Edebrades Norberto, William Hamilton-Cerón, Artemio Pantoja-Ordóñez and NN/Moisés; to reverse the acquittal of and convict and sentence Elías Sandoval-Reyes to 22 years in prison as co-

reported that “there are outstanding warrants for the arrest” of Messrs. Jaime Alberto Peña-Casas and Antonio Alonso-Martínez. At the private hearing (*supra* Having Seen clause No. 7), the State undertook to arrange for the arrest of said persons to become a priority, on the understanding that, in 2008, the director of the National Police Department had already issued specific instructions so that arrests connected to homicides would be given priority. On the other hand, the State mentioned that Mr. Elías Sandoval-Reyes is serving a sentence of 22 years in prison at the National Police Facatativá penitentiary center as a result of facts related to the instant case.⁶

9. At the private hearing (*supra* Having Seen clause No. 7), the representatives pointed out that, pursuant to Sections 312 and 350 of the Colombian Code of Criminal Procedure, the organs in charge of enforcing the arrest warrants are “DAS [Administrative Department of Security], when performing judicial police functions, the Public Prosecutor’s Office’s Investigation Division and the National Police Department.” In this regard, they asked the Court to instruct the State to submit detailed information on the activities carried out by said organs in connection with the arrests that are still pending, “from the issue of the warrant to date [...], to make the judgment of conviction fully effective.”

10. At the private hearing (*supra* Having Seen clause No. 7), the Inter-American Commission stated that, even though one of the perpetrators is currently serving his sentence, “there are two more persons who have also been convicted but remain at large,” and that it is unaware of the “actions [that have been] taken to bring them to justice.”

11. It is the Court’s view that the State has not offered complete, detailed information that would allow the adequate monitoring of compliance with this aspect. It is necessary for the State, in particular, to submit information to this Tribunal regarding the date on which the outstanding arrest warrants were issued and the actions taken by the appropriate organs in connection therewith. The Court would like to point out that, as indicated by the State at the private hearing (*supra* Having Seen clause No. 7), even though a general order giving priority to the enforcement of arrest warrants related to homicides has been in place since 2008, in the instant case two years have elapsed since then without this being actually enforced.

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perpetrator of the murders of Hernán Javier Cuarán-Muchavisoy, Julio Milciades Cerón-Gómez, Edebrades Norberto, William Hamilton-Cerón, Artemio Pantoja-Ordóñez and NN/Moisés, and to reverse the appealed ruling and convict Antonio Alonso-Martínez, Jaime Alberto Casas and Elías Sandoval-Reyes and order payment of compensation for moral and pecuniary damage to the victims.

⁶ When the crimes were committed in the instant case, Mr. Antonio Alonso-Martínez “was a member of the National Police force, where he was a Captain;” Mr. Jaime Alberto Peña-Casas “was a Lieutenant at the National Police Department,” and Mr. Elías Sandoval-Reyes “was an officer of the National Police Department.” Cf. 41st Criminal Court of the Bogotá Circuit, judgment of December 13, 2004, File No. 212-2001 (file on compliance with judgment, vol. II, folios 976 to 1041). Likewise, Criminal Chamber of the Superior Court of the Judicial District of Bogotá, judgment of March 31, 2006, File No.: 200100212, and Criminal Review Chamber of the Supreme Court of Justice, order of June 10, 2008, File No. 27426. Dismissal. Available at: <http://www.policia.gov.co/portal/page/portal/INSTITUCION/normatividad>, last visited on February 2, 2010.

12. That, as regards the obligation to publish the results of the proceedings, the State initially reported that it was making the necessary arrangements for the criminal review judgment rendered by the Supreme Court of Justice in June 2008, which had become final,⁷ to be published. At the private hearing (*supra* Having Seen No. 7), the State specified that it did publish the original and appellate criminal judgments as well as the criminal review documents on the “web pages” of the Ministry of Foreign Affairs, the National Police Department, the Ministry of Defense and the Office of the Vice President of Colombia. Moreover, it noted that, in particular, a decision was made to have all websites of the presidential human rights program of the Office of the Vice President of Colombia and the site of the Ministry of Foreign Affairs permanently carry the judgments rendered by the Inter-American Court in connection with Colombia, including the various procedural instruments that may be relevant. The State also noted that, even though these judgments will be available for a period of two months on the home page of the National Police Department’s site, a decision was made to have the “link” of the legislation page “permanently” display the judgments. It was the State’s view that, by doing so, it had complied with its obligation to “publish the results of the proceedings.” Lastly, the State addressed a “text” it sent to the representatives for consultation purposes, to coordinate the publication of the judgments, as these “extremely lengthy, [...] and in legalese and not accessible to all the public;” it thus explained that the text was intended to serve as an introduction to the judgments at the time of their publication. As to the disagreement referred to by the representatives in this regard (*infra* Considering clause No. 13), the State noted that it was “open” to discussing and agreeing on the terms of the aforementioned introductory text.

13. That, at the private hearing (*supra* Having Seen clause No. 7), the representatives pointed out that, on January 12, 2010, the State sent them a text, for consultation purposes, related to the alleged publication of the aforementioned court decisions (*supra* Considering Clause No. 12), even though they were not afforded “an opportunity to express [their] observations.” They stressed the fact that the State published two conflicting judgments, *i.e.* the original and appellate judgments, and that this is not consistent with the spirit of the measure of reparation ordered by the Inter-American Court, *i.e.* to “make the truth known, for Colombian society to know.” According to the representatives, the Judgment on reparations rendered in the instant case (*supra* Having Seen clause No. 2), “mentions that the State must publish the results of the investigation, and the result of the investigation is the final judgment, the one that becomes *res judicata*, [...] and the judicial proceedings became absolutely final upon the rendering of the judgment of the Superior Court,” not upon the criminal review judgment [*casación*], as the latter judgment did not rule thereon. The representatives considered it necessary for the Court to “ask the State to arrange for [the] publication in a manner [such] that the measure of reparation truly fulfills its established purpose.”

14. That, at the private hearing (*supra* Having Seen clause No. 7), the Inter-American Commission noted that, “in general, measures of reparation are intended for the benefit of the victims and that, in the Commission’s view, this has always

⁷ Cf. *Case of Las Palmeras v. Colombia. Monitoring Compliance with Judgment*. Order of the President of the Inter-American Court of Human Rights of December 7, 2009, Considering clause No. 7.

been a priority." It further noted that, "the State of Colombia has been very diligent in that regard, [*i.e.* in] managing to coordinate the best way to implement certain types of measures with the victims."

15. That, given the disposition expressed by both the State and the representatives, the Tribunal finds it appropriate to encourage the coordination between the two of the aspects relating to the "publi[ca]tion of]the results of the proceedings," pursuant to the first Operative paragraph of the Judgment on reparations rendered in the instant case (*supra* Having Seen clause No. 2). In this regard, the parties must report to the Court on the efforts made for that purpose (*infra* Considering clause No. 28).

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16. That, in relation to the reopening of the investigations that were closed on statute of limitations grounds, the State noted that "the malfeasance of public office, cover-up, personal injury and perjury crimes that were [referred to by] the representatives of the victims [in their observations of March 27, 2008 to the State's report] are not crimes against humanity or violations of international human rights law or serious violations of human rights, which is why they are not exempted from the statute of limitations."⁸ Moreover, at the private hearing (*supra* Having Seen clause No. 7), the State stated that, as the Court is aware, "there is an investigation in place at the Human Rights Unit of the Public Prosecutor's Office [...], investigation 876-A, [which is currently] at the preliminary stage." In this regard, it noted that "the Prosecutor's Office has reported that it has instructed the preparation of inquiries intended to establish which members of the National Army were involved in the operations that ended the lives of the victims, [and that,] so far, the only fact they have been able to verify [...] is the fact that the army provided logistic assistance by helicopter to transport the bodies, on the understanding, at the time, that these were deaths that had occurred in combat." Lastly, the State acknowledged that, "unfortunately, today we have no results, at the criminal level, other than those which are [already] known to the [...] Tribunal," and it thus promised to "move" the investigations "forward." In this regard, it stated that, "the private accuser's involvement in [the] proceeding is extremely important."

17. That, at the private hearing (*supra* Having Seen clause No. 7), the representatives reminded the Court that, on May 30, 2002, the investigation that had been opened in 1998 by the Human Rights Unit, which was finally registered under No. 876, ended with its dismissal by estoppel as to 37 members of the police department who were also under investigation in connection with the instant case. The representatives further explained that this "entailed a decision leading to *res judicata*,"⁹ which, in addition, was made subsequently to the Judgment on merits

⁸ Cf. *Case of Las Palmeras*, *supra* note 7, Considering clause No. 8.

⁹ The representatives explained that the "reason considered by the Prosecutor's Office was that more than nine years had elapsed since the military criminal investigation was opened, which far exceeded the maximum preliminary investigation period, without obtaining evidence to indict or clear the thirty-seven defendants." They added that, by the time the investigation was closed, "the judgment on merits of the Inter-American Court [...] stated that the military criminal jurisdiction was precisely the ground to hold the State responsible for the violation of the right to justice."

rendered by the Court (*supra* Having Seen clause No. 1). In this regard, they noted that, even though there is a judgment whereby three persons were convicted, no punishment has yet been dealt to “the high-ranking officers or the commanders that led [the] operation” that caused the death of seven people in the instant case, “even though [the State] is in possession of all the information needed to identify [them].” Lastly, they considered that the State’s designing “a special mechanism to move forward” the investigations would be a “very interesting proposal showing good disposition.”

18. That the Inter-American Commission stated at the private hearing (*supra* Having Seen clause No. 7) that “really, in connection with the investigation, there are no new actions other than the ones reported by the date of the Court’s Order [of August 4, 2008], which established that the proceeding would be kept open so that the State would report on the aspects [compliance with which] was still pending.”

19. That, on the one hand, the Tribunal notes that the State referred to the statute of limitations barring criminal action for the crimes of malfeasance of public office, cover-up, personal injury and perjury in connection with the facts of the instant case (*supra* Considering Clause No. 16). The Court finds it appropriate to repeat that, earlier during the monitoring compliance stage of the instant case, it had already held that the State “must guarantee internal proceedings intended to investigate all facts in the case and punish those responsible [in accordance with the Judgment on reparations].”¹⁰ In this regard, the Tribunal has noted that, even though the statute of limitations is a due process safeguard that must be duly observed by the courts in connection with every person accused of a crime,¹¹ its assertion and application are unacceptable where it is a clearly established fact that the lapse of time has been the result of procedural acts or omissions which, in a clear display of bad faith or negligence, were aimed at facilitating or allowing impunity.¹² The *res judicata* status of a decision could potentially be challenged before this Tribunal where the decision impairs the rights of individuals protected by the Convention and there is an established ground for challenging the *res judicata* status.¹³

20. That, on the other hand, the Court notes that the representatives referred once again to the estoppel, in 2002, of an investigation opened by the Human Rights Unit in May 1998. This aspect of the investigations is addressed in the Judgment on reparations rendered by the Tribunal in the instant case (*supra* Having Seen clause

¹⁰ *Case of Las Palmeras v. Colombia*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 2004, Considering clause No. 8.

¹¹ *Cf. Case of Albán-Cornejo et al. v. Ecuador. Merits, Reparations and Costs*. Judgment of November 22, 2007. Series C No. 171, para. 111; *Case of the Gómez-Paquiyaqui Brothers v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of May 3, 2008, Considering clause No. 13, and *Case of Ivcher-Bronstein*, *supra* note 3, Considering clause No. 17.

¹² *Cf. Case of Ivcher-Bronstein*, *supra* note 3, Considering clause No. 17.

¹³ *Cf. Case of Genie-Lacayo v. Nicaragua. Request for Review of the Judgment on Merits, Reparations and Costs*. Order of the Inter-American Court of Human Rights of September 13, 1997. Series C No. 45, paras. 10 to 12; *Case of La Cantuta v. Peru. Merits, Reparations and Costs*. Judgment of November 29, 2006. Series C No. 162, para. 153, and *Case of Ivcher-Bronstein*, *supra* note 3, Considering clause No. 18.

No. 2, para. 35(n)).

21. That the State has not provided this Court with complete, detailed information so that it may learn the reasons why the statute of limitations ran out on the aforementioned crimes and even on potential actions taken to review the related declarations. In particular, the Tribunal does not have sufficient information to judge whether the statute of limitations' running out on the crimes mentioned by the State (*supra* Considering Clause No. 16) was due to procedural acts or omissions intended, in bad faith or negligently, to facilitate or allow impunity. Moreover, the State also failed to address the estoppel of the investigations referred to by the representative. Accordingly, it is essential for the Tribunal to have information that will allow it to verify whether there are grounds to challenge such declaration, if appropriate.

22. That the State has also failed to provide this Court with accurate, detailed information on the investigation that is currently underway at the Human Rights Unit of Colombia's Public Prosecutor's Office.

23. That, based on the above, it is essential for the State to submit complete, detailed information on: (a) the reasons that led to the statute of limitations' running out on the prosecution of the aforementioned crimes (*supra* Considering Clause No. 16); (b) the estoppel of the investigation referred to by the representatives (*supra* Considering Clause No. 17), and (c) the investigation currently underway at the Human Rights Unit of Colombia's Public Prosecutor's Office. In this regard, the Court goes back to the representatives' proposal that the State consider the possibility of designing "a special mechanism to move" the investigation "forward."

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24. That, as regards the steps required to identify N.N./Moisés within a reasonable period of time, and to locate, exhume and deliver his remains to his next of kin, and to pay said next of kin the amount owed them by the State (*second and fifth Operative paragraphs of the Judgment on reparations of November 26, 2002*), the State informed that it instructed the *Cuerpo Técnico de Investigación* [Technical Investigation Division] and the *Departamento Administrativo de Seguridad* [Administrative Department of Security] of the city of Mocoa, in the Department of Putumayo, to "separately take steps intended to identify N.N./Moisés, pinpoint the exact location where his mortal remains are buried, locate his next of kin and deal with other aspects that are still pending." Moreover, it explained that the efforts to locate the mortal remains of said person, in addition to other related steps, are made in the framework of preliminary investigation 876-A. At the private hearing (*supra* Having Seen clause No. 7), the State explained, among other things, that on January 13, 2010 "a decision was made to entrust this case to CUVI, the *Centro Único Virtual de Identificación* [Virtual Identification Center] of the Public Prosecutor's Office,"¹⁴ for it "to prepare, adjust and execute a specific search plan for N.N./ Moisés."¹⁵

¹⁴ In this regard, the State reported that "in 2007 [...] through an inter-administrative agreement a decision [was made] to create the *Centro Único Virtual de Identificación* [Virtual Identification Center] [...] made up of several authorities competent in the search for disappeared persons in Colombia, [... including] the *Unidad de Derechos Humanos* [Human Rights Unit], the *Unidad de Justicia y Paz* [Justice and Peace Unit] of the *Fiscalía General de la Nación* [Public Prosecutor's Office], and the National Police Department

25. At the private hearing (*supra* Having Seen clause No. 7), the victims' representatives maintained that "there is no question [that] N.N. Moisés was buried, as were the other six victims, by the people of the municipality of Mocoa at the cemetery, and [that] that is where he lies." Accordingly, they argued that what should be done is plan the search for his remains based on the land where the cemetery is located, using mechanisms that are in line with the circumstances of the case. Lastly, they noted that, because N.N./ Moisés has yet to be identified, it is necessary that "the publications [ordered by the Court in an attempt to locate his next of kin] be made periodically [by the State] until [they are] found."

26. At the private hearing (*supra* Having Seen clause No. 7), the Inter-American Commission addressed the information relayed by the State in connection with the actions, steps and evidence taken with a view to locating and identifying N.N./ Moisés. In particular, it noted that "the location of [N.N./ Moisés] [remains] unknown." In this regard, it expressed its interest in "understanding how the reparations in this specific case are favored by the [Virtual Identification Center, *i.e.*] what specific progress has been made in the specific case of finding N.N./ Moisés and how this is positively affected or how [these measures...] lead to a reasonable expectation of getting results within a reasonable period of time." In this regard, it considered it necessary to have more information available regarding "its mandate, its creation, the reasons for it, its functions, [...] whether it is already operating, [and the fact] that it is coordinated by Justice and Peace [...] what it means as far as the instant case is concerned." Lastly, in connection with investigation 876-A, it considered it useful and necessary to "be informed of the steps taken subsequently to the Judgment of the Court, to be able to understand whether the evidence incorporated to that file is suitable."

27. The Court notes that, at the private hearing (*supra* Having Seen clause No. 7), both the Commission and the victims' representatives, as well as this Tribunal, expressed their interest in receiving further information on the "Virtual Identification Center." In that regard, it finds it relevant for the State to provide detailed information on the subject. Moreover, it finds it necessary for the State to submit complete, detailed information regarding the set of steps and actions taken in connection with investigation 876-A, as well as other investigations and steps related to the effective, actual progress in determining the identity and locating and

and the *Departamento Administrativo de Seguridad* [Administrative Department of Security], [...] the *Instituto de Medicina Legal y Ciencias Forenses* [Institute of Legal Medicine and Forensic Sciences," and that "this team is coordinated by the Head of the Justice and Peace Unit." The State explained that, "CUVI's specific mission is to locate pits, exhume bodies, identify them and release them to the families as a measure of reparation and a contribution to the right to learn the truth in Colombia."

¹⁵ The State also reported that, on August 15, 2009, "the judicial police submitted a report to the Prosecutor [...] on several steps taken which, unfortunately, had negative results." It further explained that, on December 15, 2009, "the Prosecutor ordered certain evidentiary actions to be taken in the investigation," as a result of which, "[first of all,] in the investigation there are [currently] elements that lead to investigation hypotheses that might guide the investigation to establish the full identity of N.N./ Moisés and the whereabouts of his next of kin, and, [second,] [...] photographs and coordinates were taken of the site where his remains are possibly buried."

delivering the remains of N.N./Moisés to his next of kin, and paying such next of kin the amount owed them.

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28. At the private hearing (*supra* Having Seen clause No. 7), the Court asked the State to submit, within a period of twenty days as from the date of notice of this Order, information on the following specific subjects: the Virtual Identification Center, the arrangements regarding "publication of the results of the proceedings," and a potential "reaction" to the subject of the "special mechanism to move" the investigation "forward" as suggested by the representatives.

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29. For a comprehensive analysis of compliance with the Judgment on reparations in the instant case (*supra* Having Seen clause No. 2), the Court will assess all information that will allow it to verify adequate compliance therewith.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions pursuant to the provisions of 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 of the Court and 31(2) and 69 of its Rules of Procedure,

DECLARES:

1. That it will keep open the procedure to monitor the following items which are yet to be complied with:

- a) steps taken to complete the investigations of the fact of the instant case and publish the results of the proceedings (*first Operative paragraph of the Judgment on reparations of November 26, 2002*), and
- b) necessary steps to identify N.N./Moisés, within a reasonable time, and to locate, exhume, and deliver his remains to his next of kin, and to pay to such next of kin the amount owed by the State (*second and fifth Operative paragraphs of the Judgment on reparations of November 26, 2002*).

AND DECIDES:

1. To call upon the State of Colombia to take all such measures as may be required to effectively and promptly comply with those aspects compliance with which is still

pending, as mentioned in the first declarative paragraph *supra*, pursuant to Article 68(1) of the American Convention on Human Rights.

2. To ask the State of Colombia to submit to the Court, by March 9, 2010, information regarding the *Centro Único Virtual de Identificación* [Virtual Identification Center], the arrangements concerning the publication of the results of the proceedings, and the potential special mechanism to move the investigation forward, as the case may be, in accordance with Considering clauses Nos. 15, 23, 27, and 28 of this Order.

3. To ask the State of Colombia to submit to the Inter-American Court of Human Rights, by March 30, 2010, a report addressing the outstanding arrest warrants, the barring of criminal action by the statute of limitations on the crimes of malfeasance of public office, cover-up, personal injury and perjury, the *estoppel* of the investigation opened in 1998 by the Human Rights Unit, and the investigations and steps related to the effective, actual progress in determining the identity and locating and delivering the remains of N.N./Moisés to his next of kin, and payment to the next of kin of the amount owed them, in accordance with Considering clauses Nos. 11, 23, and 27 of this Order.

4. To ask the victims' representatives and the Inter-American Commission on Human Rights to submit such comments as they may deem relevant on the reports of the State of Colombia referred to in the second and third operative paragraphs, within four and six weeks, respectively, of the date of receipt of those reports.

5. To continue to monitor those aspects of the Judgment on reparations compliance with which is still pending.

6. To ask the Secretariat of the Court to give notice of this Order to the State of Colombia, the Inter-American Commission on Human Rights and the representatives of the victims.

Diego García-Sayán
President

Leonardo A. Franco

Manuel Ventura-Robles

Margarette May Macaulay

Rhadys Abreu-Blondet

Alberto Pérez-Pérez

Eduardo Vio-Grossi

Pablo Saavedra-Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra-Alessandri
Secretary