

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS**

**OF AUGUST 26, 2010**

**CASE OF THE MASSACRE OF LA ROCHELA V. COLOMBIA**

**MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The Judgment on the merits, reparations and legal costs on May 11, 2007 (hereinafter, the "Judgment") delivered by the Inter-American Court of Human Rights (hereinafter, "the Inter-American Court", the "Court" or the "Tribunal"), whereby the Tribunal ordered measures of reparation to be fulfilled by the State.
2. The Interpreting Judgment delivered by the Court on January 28, 2008.
3. The communication of September 28, 2007, by which the Republic of Colombia (hereinafter, the "State" or "Colombia") together with the representatives of the victims and the next-of-kin<sup>1</sup> (hereinafter, the "representatives") "clarified" one of the reparation measures.
4. The briefs of February 1, March 27, April 9 and 14 and May 16, 2008 by which the representatives stated some issues and alleged some problems in relation to the payment of the compensations.
5. The briefs of March 11 and 19 and April 28, 2008, by which the State and the Inter-American Commission on Human Rights (hereinafter, the "Inter-American Commission" or the "Commission") presented the observations on the representatives' briefs (*supra*, Having Seen 4).
6. The notes of the Secretariat of the Court (hereinafter, the "Secretariat"), following the instructions of the Presidency and of the Court, of March 28 and May 16, 2008 in relation to the issues manifested by the representatives regarding the payment of the compensations (*supra* Having Seen 4 and 5).
7. The communications of August 22 and 27, 2007, June 9 and 12, 2008 and March 18 and 24, 2009, by which the relatives of deceased victim Carlos Fernando Castillo

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<sup>1</sup> The victims' representatives are the organization *Colectivo de Abogados "José Alvear Restrepo"* and the Center for Justice and International Law (CEJIL).

Zapata referred to several issues in relation to the payment of the compensations and the alleged fees their representatives would be charging.

8. The notes of March 25, 2009, by which the Secretariat, following the instructions of the President of the Tribunal, responded to the communications presented by the next-of-kin of victim Carlos Fernando Castillo Zapata (*supra* Having Seen clause 7). Moreover, following the instructions of the Presidency, the State was granted a deadline to inform the Tribunal whether tax has been deducted from the payment of the compensations.

9. The brief of April 15, 2009, by which the State submitted information in response to the Secretariat's note of March 25, 2009 (*supra* Having Seen 8 *in fine*)

10. The briefs of April 14, 2009, May 18 and October 5, 2009 and March 24, 2010, and the annexes thereto, by which the State reported on compliance with the Judgment, as well as the brief of April 20, 2010, by which it presented some considerations on the observations forwarded by the representatives to the State's report of March 24, 2010

11. The briefs of July 29, 2008, May 22 and July 31, 2009, January 4 and April 9, 2010, whereby the representatives submitted their observations on the State's reports or additional information in relation to the compliance with the Judgment.

12. The briefs of June 1, 2009, January 19 and June 28, 2010, by which the Inter-American Commission presented its observations to the State's reports and to the representatives' briefs (*Supra* Having Seen clauses 10 and 11).

13. The briefs of February 12, April 9 and 30, 2010, by which the State presented specific information on compliance with the reparation measure related to the obligation to provide the medical and psychological treatment needed by the victims and their next-of-kin.

14. The brief of April 5, 2010 and the annexes thereto, by which the representatives presented information on the compliance with the reparation measure related to the medical and psychological treatment for the victims and their next-of-kin.

15. The private hearing on monitoring compliance held on May 19, 2010 at the Tribunal's headquarters, to analyze the implementation of the reparation measure related to the medical and psychological treatment ordered in the instant case and in another seven cases regarding Colombia.

16. The communication of August 5, 2010, by which Mrs. Luz Marina Poveda Leon, widow of deceased victim Cesar Augusto Morales Cepeda, made reference to the compliance with two measures of reparation.

#### **CONSIDERING THAT:**

1. Monitoring compliance with its decisions is an inherent power of the judicial functions of the Court.

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

3. Article 68(1) of the American Convention stipulates that "[t]he State Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties". Therefore, the States must ensure that the rulings set out in the Court's decisions are implemented at the domestic level.<sup>2</sup>

4. In consideration of Article 67 of the American Convention that stipulates that the judgment of the Court shall be final and shall not be subject to appeal, such judgment shall be fully and promptly complied with by the State.

5. The obligation to comply with the rulings of the Tribunal conforms to a basic principle of the law on the international responsibility of States, under which States are required to fulfill their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke the provisions of its internal laws to neglect its existing international responsibility.<sup>3</sup> The treaty obligations of States Parties are binding on all State powers and organs.<sup>4</sup>

6. The States Parties to the Convention must ensure compliance with conventional provisions and their effectiveness (*effet utile*) within their respective domestic legal systems. This principle applies not only in connection with the substantive provisions of human rights treaties (*i.e.* those dealing with provisions on protected rights) but also in connection with procedural rules, such as those concerning compliance with the decisions of the Court. Such obligations are intended to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, taking into account the special nature of human rights treaties<sup>5</sup>.

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7. Next, the Court shall assess the information presented by the parties related to the different reparation measures ordered in the Judgment and shall determine the level of compliance by the State. Said Judgment ordered Colombia to comply with the reparation measures agreed upon in the "Partial Agreement on certain reparation measures" approved by the Court as well as the additional measures that the Court

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<sup>2</sup> See *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para 60; *Case of Baena Ricardo et al V. Panama. Monitoring Compliance with the Judgment*. Order of the Court of May 28, 2010, considering clause three and *Case of Vargas Areco V. Paraguay*, Monitoring Compliance with Judgment. Order of the President of the Court of July 20, 2010; Considering Clause three.

<sup>3</sup> See *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (articles 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994, Series A N° 14, para. 35; *Case of Baena Ricardo et al V. Panama*, supra note 2; Considering Clause five; and case of *Vargas Areco V. Paraguay*, supra note 2, Considering Clause four.

<sup>4</sup> See *Case of Castillo Petruzzi et al V. Peru. Monitoring Compliance with Judgment*. Order of the Court of November 17, 1999, Considering Clause three; *Case of Baena Ricardo et al V. Panama*, supra note 2; Considering Clause five; and case of *Vargas Areco V. Paraguay*, supra note 2, Considering Clause four.

<sup>5</sup> See *Case of Ivcher Bronstein V. Peru. Competence*. Judgment of the Inter-American Court of Human rights of September 24, 1999. Series C N° 54, para. 37; *Case of Baena Ricardo et al V. Panama*, supra note 2; Considering Clause six; and *Case of Vargas Areco V. Paraguay*, supra note 2, Considering Clause five.

ordered, which the Court considered necessary to adequately repair the consequences of the violations declared in the Judgment.

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***Partial agreement in relation to some reparations measures***  
*(operative paragraph eight and paragraph 277 of the Judgment)*

*The installation of a plaque and a photographic gallery in a visible place at the Courthouse of San Gil municipality, Santander department.*

8. In relation to the obligation to install, in a visible place at the Courthouse of San Gil municipality, Santander department, a plaque with the dates of the events and the name of the victims and a photographic gallery of the victims, as well as the obligation to broadcast the ceremony on the official channel. In said ceremony the plaque and the photographic gallery would be installed (paragraph 277(I)(1) of the Judgment), the State communicated that it had prepared the plaque and, at a meeting in April, 2009, it had proposed a date to install it to the representatives. The date was not accepted by the representatives. Therefore, since then, the State has been waiting for the victims' representatives to propose a date [to install it]." Colombia requested the Court to declare that "it has complied with the creation of the plaque that shall be placed at the Courthouse of San Gil."

9. The representatives corroborated the information presented by the State and explained that they could not accept the date proposed by the State since "they were not notified of the act in advance so as to ensure a large presence of next-of-kin and [to be able to] organize the corresponding logistical issues." They stated that, due to the great importance of agreeing on the ceremony with the victims, they requested the State to suggest an alternative date in order to have "enough time to notify the victims and their next-of-kin about the event and to request their views on the matter, to agree on the structure of the ceremony and the participation of the victims thereto, and to coordinate the logistical issues." They requested the Court to keep monitoring compliance with this reparation measure.

10. The Commission noted with satisfaction the information presented on the development of the activities to comply with this reparation measure and stated that it was waiting for information on its effective implementation.

11. The Court positively values the actions taken by the State so far in order to comply with this measure, and especially its willingness to coordinate with the representatives regarding its implementation. These actions constitute partial compliance with this reparation measure. The Court recognizes the willingness of the representatives to fully satisfy the expectations of the victims and their next-of-kin, as shown by coordinating the different aspects of the event to install the plaque with them. By doing so the measure will fulfill its aim to honor the memory of the victims and magnify the impact of this symbolic commemorative measure. However, taking into account that the plaque has been ready for installation in the Courthouse of San Gil since April 2009, and that the representatives have still not proposed a date to carry out the corresponding event, the Court urges the representatives to propose, within three months following notification of this Order, a date to the State in order to finalize the implementation of this reparation measure. If the representatives do not communicate such a proposal to the State, the State could continue to take action to proceed with the

implementation of this measure by coordinating and staying in permanent contact with the representatives. Moreover, the Court notes that this measure also contemplates the installation, and unveiling, of a photographic gallery of the victims as part of said ceremony, as well as the transmission of the ceremony on state-run television. Nor the State or the representatives have referred to the transmission in their briefs.

*The installation of a plaque in the Paloquemao judicial complex in Bogotá*

12. In relation to the obligation to place a plaque with the date of the events and the names of the victims in Paloquemao judicial complex in Bogotá (*paragraph 277 (1)(2) of the Judgment*), since its report of April 14, 2009, the State has mentioned that it is waiting for the proposal for the text, size and material from the victims' representatives. The State requested the Court to order the representatives "to present the plaque proposal as soon as possible."

13. The representatives corroborated the information presented by the State and manifest that they are "in the process of drafting, with the victims' next-of-kin who live in different areas of the country, a single and final proposal that fully satisfies their expectations and requirements to comply with this reparation measure." They requested the Court to continue monitoring compliance with this measure.

14. The Commission noted with satisfaction the information presented on the development of activities to comply with this reparation measure and stated that it was waiting for information on its effective implementation.

15. The Court values the willingness shown by the State to implement this reparation measure. The State ensured that the representatives collaborated with proceedings, even when choosing the "text, size and material" of the plaque.<sup>6</sup> Bearing in mind the State, for more than a year, has been stating that it is waiting for the representatives to present a proposal to define the aforementioned details and that, according to the provisions of the agreement, the "possible type, installation site and ceremony needed to be agreed upon," therefore, the Court urges the representatives to communicate, within three months following notification of this Order, the plaque proposal to the State to finally implement this reparation measure. If the representatives do not communicate such proposal to the State, the State will be able to continue taking actions to proceed with the implementation of this measure, by coordinating and staying in permanent contact with the representatives.

*To modify the text and relocate the commemorative plaque found at the Office of the Public Prosecutor.*

16. In relation to the obligation to modify the text of the existing commemorative plaque of the La Rochela Massacre, by mutual consent between the representatives and the Vice-president of the Republic, and to relocate it (*paragraph 277(I)(3) of the Judgment*), the State informed that "the plaque, which was installed at the Office of the Public Prosecutor, had been completely changed, as it was not possible to modify its text." As for choosing where to locate the plaque, it communicated that the victims' next-of-kin and their representatives chose a highly visible place at the Office of the Public Prosecutor, and, on March 13, 2008, a ceremony was conducted to unveil the

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<sup>6</sup> According to the partial agreement on reparations, the plaque must contain "the date of the events and names of the victims". *Case of the Rochela Massacre V. Colombia*. Merits, Reparations and Legal Costs. Judgment of May 11, 2007. Series C N°. 163, para. 277.I.2.

plaque, which was presided over by the Public Prosecutor of the Republic and was honored by the attendance of the victims' next-of-kin. The State provided a compact disc containing photographs and a video of the ceremony. Colombia requested the Court to declare compliance with this reparation measure.

17. The representatives noted that this measure was fulfilled in good faith by the State, as the State unveiled a new plaque at the Office of the Public Prosecutor —the text and location of which were previously agreed upon with the victims' next-of-kin. They requested the Court to declare that the State's compliance with this reparation measure.

18. The Commission took note of the information presented by the State and the representatives and the fact that the representatives requested the Court to declare compliance with this measure.

19. In accordance with information provided by the parties, the Tribunal considers that the State has fully complied with this reparation measure and emphasizes that it fulfilled the measure while constantly seeking mutual agreement with the representatives of the victims and their next-of-kin.

*To report, in a judicial branch television program, on the events of the case, the State's partial recognition of responsibility, and the Judgment.*

20. Regarding the obligation by which the judicial branch television program shall report on the events of the case, the State's partial recognition of responsibility, and the Judgment (*paragraph 277(1)(4) of the Judgment*), none of the parties forwarded information on this measure. Therefore, the Court deems it necessary for the State to present detailed information on the matter, and for the representatives and the Commission to present their observations on the information provided by the State.

*To set up a diploma in Human Rights that include a study of this case*

21. In relation to the measure to set up, for one time only, a diploma in Human Rights at the Escuela Superior de Administración Pública [Higher Education School of Public Administration ] (ESAP), which will include a study of this case (*paragraph 277(1)(5) of the Judgment*), the State informed that in a meeting held in June 2008, said Higher Education School presented the curriculum of the diploma to be taught and the representatives expressed their approval of its design and structure. In a report of April 14, 2009, it stated that said Higher Education School is following procedures to begin to offer the diploma course.

22. In a brief of May 22, 2009, the representatives noted that "some steps have been taken in order to implement this reparation measure," but that it has not been fulfilled as of yet.

23. The Commission indicated that "it note[d] with satisfaction" the information presented by the State on the execution of activities to honor the commitments made, as well as the observations made by representatives that confirm the progress made to that end "and [that] it [was] waiting for information on the effective and full implementation of all the aspects of the reparation".

24. The Court values that, according to the information provided by the parties, the State has taken steps to make progress towards compliance with this measure.

However, in the reports presented after April 2009, the State has not provided further information on the implementation of this measure and the representatives also have not referred to its compliance after their observations of May 22, 2009. The Court considers that it is desirable to request the parties to present up-to-date information on the effective implementation of said diploma course, which shall include a study of the instant case.

*A scholarship for a specialization in human rights named so as to evoke the memory of the victims*

25. In relation to the measure to set up a scholarship for a specialization in human rights at the Escuela Superior de Administración Pública on a permanent basis, if possible, for members of the judiciary (*paragraph 277 (1)(6) of the Judgment*), the State, in its report of April 14, 2009, explained that said Higher Education School is following administrative procedures to grant the scholarship.

26. The representatives observed that the State has taken some actions to implement this reparation measure, but the measure has not been fulfilled.

27. The Commission noted that "it observe[d] with satisfaction" the information presented by the State on the development of activities to honor the commitments made, as well as the observations of the representatives that confirm the progress made to that end, "and that it [was] waiting for information on the effective and full implementation of all the aspects of the reparation."

28. The Court acknowledges that, according to the information provided by the parties, the corresponding State institution may have taken steps towards the implementation of this reparation measure. However, in the reports presented after April 2009, the State has not provided further information on the implementation of this measure and also the representatives have not referred to the compliance therewith after the presentation of their observations of May 22, 2009. The Court considers that it is desirable to request the parties to present updated and complete information on the effective establishment of the scholarship, which, according to what was agreed upon, shall be permanent and "be named in such a way that the memory of the victims of the La Rochela Massacre is evoked. The name shall be mutually agreed upon between the State and the representatives."

*To publish the facts of La Rochela Massacre*

29. As to the obligation by which the Presidential Human Rights Program should issue a publication on the facts of the Rochela Massacre (*paragraph 277.1.7 of the Judgment*), the State reported that in September 2008, said Presidential Program published the book *Voces contra el Olvido, Reconstrucción del caso de la Masacre de La Rochela* [Voices Against Forgetting, A Reconstruction of the Case of the La Rochelle Massacre], the text of which was agreed upon with the victims' representatives. The state also mentioned that the book has five chapters "which completely reconstruct the facts, the testimonies of the victims' next-of-kin and it contains a brief introduction into the general aspects of the inter-American System of Human Rights." Moreover, it emphasized that it distributed copies of the book to the representatives in order to pass them on to the next-of-kin and also to public and private entities, including the public libraries of Bogota and Santander, "in order to guarantee its dissemination and society's

awareness in general". The State provided a copy of the book. It requested that this reparation measure be declared fulfilled.

30. The representatives noted that the State complied with this measure through the publication of said book, the content of which was reviewed by them and the victims before its publication and that copies of the book had, in fact, been distributed among the representatives. They requested the Court to declare that the State complied with this reparation measure.

31. The Commission noted that the representatives confirmed the information provided by the State and it expressed its satisfaction with the compliance with the commitment made by the State.

32. The Court values the willingness of the parties to agree on and coordinate the necessary aspects to appropriately implement this reparation measure. Moreover, the Tribunal emphasizes that, in the different chapters, the book covered important aspects that, as well as dealing with the facts of the case and the different reparation measures ordered in the Judgment, in accordance with the terms of the partial agreement on reparations, it also included photographs of the victims and thoughts dedicated by their next-of-kin and a "summary of the testimonies" given by the victims' next-of-kin, as well as a general introduction into the Inter-American System for the Protection of Human Rights. Moreover, the Court emphasizes that the State has not only published the book but it also helped with its dissemination, all of which has a clear remedial value for the victims' next-of-kin, contributes to greater preservation of the historical memory of the human rights violations committed, fosters the non-repetition of similar facts, and even promotes the Inter-American System. Based on the foregoing, the Court deems that Colombia has fully complied with this reparation measure.

*To request Supreme Council of the Judiciary to give the Courthouse of the Municipality of San Gil a name that evokes the memory of the victims*

33. As for the "best efforts" obligation with regard to requesting that the Supreme Council of the Judiciary give the Courthouse of the Municipality of San Gil a name that evokes the memory of the victims (*paragraph 277(1)(8) of the Judgment*), in its report of April 14, 2009, Colombia communicated that, after several meetings and requests by State, the representatives forwarded a proposal in July 2008 to name the Courthouse of San Gil "Justicia para la Justicia – Masacre de la Rochela: 18 de enero de 1989" [Justice for Justice - La Rochela Massacre: January 18, 1989]. The State highlighted that, despite the fact that the proposal to change the name was not accepted by the Administrative Chamber of the Supreme Council of the Judiciary, said Chamber "adopted a measure to safeguard the memory of the victims of this case and decided to name the small square of San Gil Courthouse *Mártires de la Justicia de la Rochela* [Martyrs of Justice of La Rochela]. The State requested to declare this measure to be fulfilled.

34. The representatives confirmed the information provided by the State and reported that, in the meeting held on April 22, 2009, the State proposed a date to carry out the ceremony in which the small park of the Courthouse of San Gil would be renamed and the plaque unveiled. However, the representatives requested an alternative date from the State to have "enough time to notify the victims and their next-of-kin of the event and request their opinions about the matter, to agree on the organization of the act and the participation of the victims thereto, and organize the logistical issues." They requested the Court to keep monitoring compliance with this reparation measure.



35. The Commission indicated that “it t[ook] note with satisfaction” of the information presented by the State regarding the development of activities to honor the commitments made, as well as the representatives’ observations that confirm the progress made to that end, “and that it [was] waiting for information on the effective and full implementation of all the aspects of the reparation.”

36. The information presented by the parties suggests that Colombia complied with the “best efforts” obligation to request the name change of the Courthouse of the Municipality of San Gil, in accordance with the name chosen by the next-of-kin. The Court highlights that the State took actions beyond the compliance with that obligation, given that although such change of name was not approved, it proposed a measure to safeguard the memory of the victims in a similar fashion by naming the small square of the Courthouse *Mártires de la Justicia de la Rochela*. According to the representatives’ statements, the Court assumes that the representatives are satisfied with this measure and that they are making the necessary arrangements to propose a date for ceremony, in which the square will be named, to the State and to coordinate “the structure of the ceremony and the victims’ participation therein.” As a result, the Tribunal considers that the State has fully complied with this reparation measure and urges the parties to continue to make the necessary arrangements to finally implement the measure proposed by Colombia to name the small square of the Courthouse of San Gil *Mártires de la Justicia de la Rochela*.

*To publish a “summary of the key elements in the instant case” in a widely circulated national newspaper*

37. As to the obligation to publish a “summary of the key elements in the instant case” in a full-page article in the printed edition of a widely circulated national newspaper (*paragraph 277(II)(1) of the Judgment*), the State reported that on October 18, 2008, the text on the Judgment of the Court was published in *El Espectador* newspaper. The State explained that it made a proposal regarding the text to the representatives in February 2008, but that it was not until September 18 of that same year that the State received a response on the matter. Colombia forwarded a copy of said publication to the Court and requested to declare this measure fulfilled.

38. The representatives confirmed the information provided by the State and that the published text was “a summary of the Court’s judgment that was previously agreed upon between the representatives and the State”; they also expressed that “[t]his method of compliance allowed the text to be more accessible for the public.” The representatives requested the Court to declare that the State complied with this reparation measure.

39. The Commission noted that the representatives confirmed the information presented by the State regarding this matter and they requested the Court to declare this measure fulfilled.

40. In view of the parties’ request, and taking into account the alleged information, the Court considers that the State has satisfactorily complied with this reparation measure. The Court particularly values the outstanding effectiveness of this measure given the agreement reached between the parties on the text of the summary and the manner of its publication, which allows the publication of a text that can be more readily

understood<sup>7</sup> and have a greater impact upon the population in general. In this case, the text even includes photographs of the deceased victims and Colombia's public statement on "its commitment to fully comply with the reparations ordered by the Inter-American Court [...]."

*To refer the Court's Judgment to the National Reparations and Reconciliation Commission*

41. As for the obligation to refer the Judgment, through a high-ranking authority, to the National Reparations and Reconciliation Commission (hereinafter, "CNRR") (*paragraph 277(II)(2) of the Judgment*), the State and the representatives, by means of a joint communication of September 28, 2007 (*supra* Having Seen 3), explained that, even though it was stipulated in the agreement that said high-ranking authority should request the CNRR to consider the possibility of "including [L]a Rochela Massacre in its reports on paramilitarism and using the Inter-American Court's Judgment in this case as one of its formal sources," "producing a 'report on paramilitarism' is not among CNRR's duties. They explained that, nevertheless, the CNRR must "[p]resent a public report on the reasons for the emergence and evolution of illegal armed groups." In that respect, the State and the representatives explained that "the reparation measure refers to the [latter] report" and indicated that "[t]his clarification does not imply any modification of the content of the measure, which seeks to ensure that the [CNRR] take the decision of the Inter-American Court into account [...] in this case."

42. Afterwards, the State reported that in December 2007, the Vice-President of the Republic forwarded a note to the President of the CNRR, prior to doing so, the content was read and approved by the victims' representatives. Furthermore, it highlighted that the case of La Rochela Massacre "was selected as a study subject by the Group of Historical Memory of the [CNRR]." Based on the foregoing, the State requested the Court to declare compliance with this reparation measure.

43. The representatives stated that Colombia "complied with this measure" and requested the Court to declare the compliance. Moreover, they emphasized that the Group of Historical Memory of the CNRR was preparing a report on La Rochela Massacre.

44. The Commission noted that the representatives requested the Court to declare compliance with this measure.

45. In view of the parties' requests and explanations, and taking into account the alleged information, the Court deems that the State has satisfactorily complied with this reparation measure.

*To continue providing educational assistance (scholarships) to the victims' next of kin*

46. In relation to the "best efforts obligation" to "continue providing educational assistance (scholarships) to the victims' next of kin for state or private, secondary, technical and higher education institutions in Colombia" (*paragraph 277(III)(1) of the Judgment*), the State informed that the Presidential Program on Human Rights had processed all the applications of the victims' next-of-kin that were presented according to the conditions established and it stated that the granting of the scholarships "will be

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<sup>7</sup> See *Case of Escue Zapata V. Colombia*. Monitoring Compliance with Judgment. Order of the Court of May 18, 2010, Considering Clause 31.

at the educational institution's discretion." The State manifested that a document was forwarded to the victims' representatives regarding the application procedure for a scholarship, in order to clarify the doubts raised by the next-of-kin. The State attached documents that compile the educational benefits provided by said Presidential Program before the different educational institutions, the scholarships that were granted, those that were denied and those that had not been processed because the interested parties did not present the necessary documents. According to the information, from December 2007 to September 2008, "it was possible to process scholarships for 21 victims who had directly applied to the Program or who had expressed their interest through [the representatives] or other victims." Then, it stated that during 2009, said Presidential Program processed the university scholarship applications on behalf of three next-of-kin, but "despite the repeated applications, it was not possible to obtain a favorable response" for two of them. The State highlighted that this situation was communicated to the next-of-kin "who regretted the results but seemed to be understanding, taking into account the nature of the "best effort" obligation related to these actions." Therefore, it requested the Court to "declare that the State is complying with this reparation measure in an effective and timely manner."

47. The representatives noted that the State has processed scholarships for some relatives of the victims and expressed that they agree with the State in that "it is complying with this reparation measure." They indicated that they understand that "the State will continue to provide assistance within its legal power, and the Court will continue to monitor compliance with this reparation measure."

48. The Commission took note of the information presented by the parties regarding this measure. Moreover, the Commission indicated that it "took note with satisfaction" of the information presented by the State on the development of activities to honor the commitments made, as well as the observations of the representatives that confirm the progress made to that end, and "[that] it [was] waiting for information on the effective and full implementation of all the aspects of the reparation measure."

49. According to the information furnished and taking into account that the State requested the Court to declare that "it is complying with this measure in an effective and timely manner," and that the representatives agree with the State, the Tribunal values the actions taken by Colombia during 2007, 2008 and 2009 and considers that the State has been fulfilling the measure to provide scholarships to the victims' next-of-kin. This Tribunal considers it is necessary for the State to present information on compliance with this measure in 2010 and to continue implementing it. Furthermore, given that Colombia has been satisfactorily complying with this reparation measure for several years, the Tribunal considers it pertinent to require the representatives to communicate, in their observations on the State's report (*infra* operative paragraph three), whether they believe there to be other victims' next-of-kin who would be interested in benefiting from this reparation.

*To continue offering job vacancies at the Colombian Prosecutor's Office to the victims and their next of kin*

50. In relation to the measure to the effect that the Colombian Prosecutor's Office shall continue offering job vacancies to the victims and their next of kin, "in so far as they meet the qualification standards required to occupy the positions [...]" (*paragraph 277(III)(2) of the Judgment*), the State manifested that said Prosecutor's Office "has processed all the applications presented and most of them had had a positive response". The State attached a document from said Prosecutor's Office, which contains a list of the

applications and actions taken in relation to 20 applicants and the "results related to promotions and appointments" up until December 2008. In its report of October 5, 2009, Colombia further alleged that it was necessary to report that, as from 2009, "the Prosecutor General's Office is implementing a reform process to create an administrative career structure for these positions" and that a "restructuring" was being carried out. Colombia also indicated that, in this context, a next-of-kin stated that a decision ruled in his favor on a recourse of *amparo*, filed because he was not appointed as Deputy Prosecutor even though his name was included on the list of potential candidates, and that he would inform the Court on the outcome of this issue. The State requested the Court to declare "it is complying" with this reparation measure.

51. The representatives noted that the State has been offering job vacancies at the Prosecutor's Office to some relatives of the next-of-kin, and expressed that they agree with the State on the fact that "it is complying with this reparation measure," without damaging the need to resolve "some difficulties that have arisen in the Prosecutor's Office." The representatives stated that they understand that "the State will continue offering job vacancies within the limits of its legal power and that the Court will continue monitoring compliance with this reparation measure."

52. The Commission took note of the information presented by the parties regarding this measure. Moreover, the Commission indicated that it "took note with satisfaction" of the information presented by the State on the execution of activities to honor the commitments made, as well as the observations of the representatives that confirm the progress made to that end, and "[that] it [was] waiting for information on the effective and full implementation of all the aspects of reparation."

53. According to the information furnished and since the State requested the Court to declare that "it is complying with this measure," and the representatives agree with the State, the Tribunal values the actions taken by Colombia and considers that the State has been fulfilling the measure to provide scholarships to the victims and their next-of-kin. This Tribunal considers it necessary for the State to present updated information on compliance with this measure and to continue with its implementation. Furthermore, given that Colombia has been complying with this reparation measure, the Tribunal considers it appropriate to require the representatives to communicate, in their observations on the State's report (*infra* operative paragraph three), whether they consider there are other victims or next-of-kin who would be interested in benefiting from this reparation.

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***Obligation to investigate the facts, identify, prosecute and, if applicable, punish the responsible***

54. In relation to the obligation to effectively conduct the criminal proceedings currently underway and those that have yet to begin, and adopt all measures necessary to clarify the facts of the present case in order to determine the responsibility of those involved in the aforementioned violations (*operative paragraph nine of the Judgment*), the State requested that "the information furnished regarding the investigation not be included in any kind of public document, as this information is partly in the preliminary phase and, thus, confidential." Furthermore, the State indicated that the victims' representatives have active participation in the proceeding as civil parties, "which allows

them to put forward their observations to the proceedings within the appropriate legal scope. Also, it is within such scope that the observations will be resolved in due time."

55. Before assessing compliance with the obligation to investigate, it is appropriate, first, to rule on the State's request regarding the disclosure of information put forward in the investigation. To that end, the Court refers to the decisions made to monitor compliance in relation to other cases in which Colombia has put forward the same argument<sup>8</sup>. Therefore, the Court shall take into account all the information provided, which was duly forwarded to the representatives and the Inter-American Commission, and shall only include the indispensable information in this Order, for the purposes of determining the level of compliance with this operative paragraph.

56. The State reported that, at present, the National Human Rights Unit of the Prosecutor General's Office is conducting an investigation, and the prosecutor in charge of the investigation "has carried out various activities related to the decreeing and taking of evidence," which can be seen in the important results obtained and the State referred to these results.<sup>9</sup> Moreover, the State indicated that the victims' representatives have actively participated in the criminal proceeding as civil parties. It further stated that the prosecutor for the case had a meeting with the representatives in order to "answer different concerns" they had with regard to the proceeding. In addition, Colombia emphasized that "several law enforcement officers, including high-ranking military authorities, had been linked with the investigation into these facts, and that the Prosecutor is constantly addressing this line of investigation." In the brief of April 20, 2010, Colombia made reference to the observations presented by the representatives regarding the fact that no judgment has been passed down against the accused Luis Enrique Andrade Ortiz, who was brought before a hearing in December 2009 (*supra* footnote page 9(v) and 9(xiii)); in that respect, it sustained that "taking the complexity of the investigation into account, it deem[ed] that announcing a decision of such

<sup>8</sup> See Case of the *Ituango Massacres V. Colombia*. Monitoring Compliance with the Judgment. Order of the Court of July 7, 2009, Considering Clauses twelve and thirteen; Case of the **Mapiripán Massacre V. Colombia**. Monitoring Compliance with the Judgment. Order of the Court of July 8, 2009, Considering Clauses twenty-two to twenty-six; Case of the **Pueblo Bello Massacre V. Colombia**. Monitoring Compliance with the Judgment. Order of the Court of July 9, 2009; Considering Clauses eight to eleven; *Case of the 19 Tradesmen V. Colombia*. Monitoring Compliance with Judgment. Order of the Court of July 8, 2009, Considering Clauses ten to thirteen.

<sup>9</sup> Among these results, the State highlighted: i) the judgment delivered on June 22, 2007 by the First Trial Court of the Specialized Circuit of Bucaramanga, by which Miguel Angel Osuma Gomez and Jairo Ivan Galvis were sentenced to 40 years imprisonment; ii) the order to bring charges issued by the Prosecutor's Office on July 19, 2007 against five accused; iii) the order issued by the Prosecutor's Office on October 17, 2007, by which it was ordered to link two paramilitary officers and two "state agents"; iv) the condemnatory order issued by the Prosecutor's Office on February 15, 2008, against one of the paramilitary officers associated with the investigation by means of the previous order (*supra* iii); v) the order issued on May 14, 2009 by which it was decided the legal situation of two paramilitary officers and a "state agent" previously associated with the investigation and their preventative detention was ordered on charges of multiple aggravated murder and conspiracy to commit a crime; it was also decided to continue with the investigation against the "former state agent" Luis Enrique Andrade Ortiz and an arrest warrant was issued against him (*infra* xiii); vi) the order issued on May 14, 2009, by which three "former state agents" (retired generals) and a former congressman were summoned to render a preliminary examination statement; vii) in July 2009, the statement of two of these people was received; viii) in August 2009, the preliminary examination statement was taken from one of the retired generals who were summoned on May 14 of that year (*supra* vi) ix) in August 2009, the affidavit of one paramilitary officer was received; x) in September 2009, the former congressman who was summoned on May 14 of that year, rendered the preliminary examination statement (*supra* vi); xi) in September 2009, a judicial inspection was carried out; xii) on October 23, 2009 it was decided to refer the investigation to the Supreme Court of Justice in order to conduct the proceeding against the already mentioned former congressman and "two former law enforcement officers" (*supra* vi and x); such referral will be final once the case file is reorganized and xiii) on December 4, 2009, a public hearing was conducted in order to try Luis Enrique Andrade Ortiz, "former state agent" (*supra* v)"

magnitude in a short time frame would be inconceivable and irresponsible." Furthermore, in relation to the observations presented by the representatives regarding the process of Justice and Peace, it stated that "[e]ven though it is true that the Justice and Peace Law cannot be analyzed within the framework of monitoring compliance with the [J]udgment, issued in the instant case in a general and abstract way, but rather it can only be analyzed in relation to this particular case and the criminal investigation conducted thereof, [...] the [S]tate present[ed] some opinions on this particular issue." Moreover, it indicated, *inter alia*, that "with respect to the specific case of [L]a Rochela Massacre and the Justice and Peace Law [...] the Prosecutors of the Justice and Peace Unit sh[all] continue investigating the facts pending positive results." In addition, Colombia asserted that despite the fact that "this is not an appropriate space in which to analyze the legal framework of Law 1312 of 2009," it deemed it desirable to refer to the regulation of the concept of the principle of opportunity.

57. The representatives acknowledged that the information presented by the State "suggests that certain progress has been made in the processing and course of the criminal investigations." However, in the observations of May 22, 2009, they stated, "the general balance reveals a worrying panorama of impunity." In that respect, they alleged, *inter alia*, the lack of progress made in determining the criminal responsibility of state agents, indicating, *inter alia*, that: in July 2007, the representative of the civil party in the criminal proceeding requested that the Prosecutor's Office include twenty-five law enforcement agents in the investigation and by May 2009, only two of them had been included. They stated that, "the Prosecutor General's Office has not taken enough decisions to investigate all the state agents involved" and charges were brought against a lieutenant merely for criminal association when the State itself had acknowledged before the Court that the paramilitary group responsible for the massacre operated with help from army units under the control of said lieutenant. Furthermore, they argued that the factors highlighted by the Court, which show a complex criminal structure, "had not been subjected to diligent and wise treatment in order to identify all those responsible." Since October 2007, it ordered that a paramilitary chief be linked to the crime, but "his legal situation remains undefined;" and, even though they positively value the fact that a resolution has been issued defining the legal situation of three paramilitary chiefs as part of a criminal proceeding before the court, it is a cause for concern that two of them, who were proposed by the National Government to receive benefits provided for in the Justice and Peace Law, gave statements on several occasions "in which they refused to provide useful information to shed light on their participation and on other people's participation in La Rochela Massacre." They also referred to the lack of apprehension of the persons convicted or linked to the investigation. At a later date, in a brief of July 31, 2009, they emphasized that on May 14 of that year, the Prosecutor's Office ordered the taking of the preliminary examination statement of three retired generals, as well as of a former Congressman, an action that they considered "to be the first decision made by the Colombian judicial authorities which showed a serious interest in conducting an investigation into the high-ranking military and political authorities that ordered and concealed the massacre." In a brief of April 9, 2010, they stated that although a public hearing was held on December 4, 2009, as part of the proceeding against the former law enforcement agent Luis Enrique Andrade, "no judgment has been announced as of yet". Moreover, the representatives have referred to the application of Decree 128 of 2003, the enactment of Law 1312 of 2009, and the regulation of the principle of opportunity, as well as "some basic information on the drafting and application of Law 975" (Justice and Peace Law). Moreover, regarding the instant case, they emphasized their concern regarding the possibility of suspending the ordinary proceeding that is being conducted into the facts of the case against the two paramilitary chiefs proposed as recipients for

the benefits of Law 975 of 2005; they also noted that "none of the people who rendered the 1968 statements [...] confessed to participating in La Rochela Massacre".

58. The Commission took note "with satisfaction of the statements made in good faith by the State," but it considered it necessary that the State present, in a systemized manner, the information related to the investigations in this case, the methods used and the results obtained. Furthermore, it stated that it was essential to be aware of the legal framework of the investigations being conducted, the actions that still take place under military jurisdiction and the legal decisions that are final in nature, issued as part of the proceeding. In its observations of June 28, 2010, the Commission manifested that "the legal proceedings continue to be an insufficient means of guaranteeing the effective access to justice for the victims." In addition, it noted that a conflict exists between the parties regarding the application of the Justice and Peace Law and the effects thereof, and it emphasized that, "it is vital that the legal framework, and its interpretation by the Constitutional Court, be fully observed by the bodies in charge of its implementation [...] so that the legal benefits granted to the demobilized individuals do not to merely constitute legal aid, but rather comply with the genuine objective of offering an incentive for peace, the search for truth and the due reparation of the victims affected by the conflict."

59. Upon ordering the reparation measure on the obligation to investigate, the Court considered the violation of the right to judicial guarantees and judicial protection in the instant case, based on, *inter alia*: the lack of due diligence in the investigation; the threats made to judges, witnesses and relatives; the obstacles and obstructions to the execution the investigation, as well as the unjustified delays in the proceedings;<sup>10</sup> the trial of an army official on the charge of murder before a military criminal jurisdiction in violation of the principle of competent, independent and impartial court [*juez natural*].<sup>11</sup>

60. The information presented to the Court during the procedure to monitor compliance makes it possible to verify that, following the delivery of the Judgment some progress has been made in the investigation before the criminal courts. In its Judgment of May 11, 2007, the Court noted, *inter alia*, that during 18 years of investigations into the facts of the massacre, only six members of the "Los Masetos" paramilitary group, one leader of the ACDEGAM paramilitary group and one soldier (who was a sergeant) have been convicted. Furthermore, the sergeant was convicted of concealment.<sup>12</sup> According to information submitted to the Court, between June 2007 and April 2010, the following results and proceedings were maintained:

- a) Two persons were sentenced to 40 years imprisonment;
- b) Charges were brought against 6 individuals;
- c) Two decisions were issued ordering the association of 4 persons with the investigation (two former paramilitary members and two "State agents");
- d) The legal situation of three individuals (two former paramilitary officers and one "State agent") was decided and they were remanded in custody for multiple aggravated homicides and conspiracy to commit a crime. There is no record proving that the detention was carried out;
- e) It was decided to continue with the investigation against one "former State agent" (former Lieutenant Luis Enrique Andrade Ortiz); an arrest warrant was issued against him and a public hearing was held in the trial proceedings

<sup>10</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 288.

<sup>11</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 204.

<sup>12</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 159.

- conducted against him. The State did not report the crime he was accused of. According to the Judgment, in 1989 an order ruled in his favor closing proceedings for homicide before military jurisdiction<sup>13</sup> and in January 2007, it was decided to bring him under investigation in the ordinary criminal courts for the offense of conspiracy to commit a crime;<sup>14</sup>
- f) Three "former State agents" (retired generals) and a former Congressman were summoned to give preliminary examination statements. One of the retired Generals and the former Congressman gave preliminary examination statements. None of the former State agents had been formally associated with the investigation when the Court delivered its Judgment and with regard to the former congressman, a resolución inhibitoria [motion to dismiss] was issued; and,
  - g) It was decided to remit the investigation to the Supreme Court of Justice in order to carry out proceedings against the former Congressman and "two former law enforcement officers." There is no record showing that such investigation has been completed.

61. The foregoing proceedings show that in the last three years two persons have been convicted and another 14 are being investigated or on trial; most of them are former paramilitary members and former state agents. Furthermore, the first steps have been taken in the investigation into the participation of high-ranking military authorities and other state agents; however, no convictions have been announced against former state agents. Even though progress has been made with the investigation and punishment, it is vital that the State continue investigating, with due diligence, in order to determine all those responsible for the La Rochela Massacre. In that respect, it is necessary to remember the seriousness of the crimes committed in this case, which entailed a complex structure of individuals that took part in planning and executing the crime.<sup>15</sup> In the proceeding before the Court, the State itself acknowledged that, at least, forty members of the "Los Masetos" paramilitary group, acting in cooperation and with the acquiescence of State agents, initially detained the fifteen victims of the instant case, who were members of a Judicial Commission (Unidad Móvil de Investigación [Mobile Investigative Unit]) and later committed a massacre against them. As a result of the attack, twelve members of the Judicial Commission were killed and three survived.<sup>16</sup> It should be considered that, as well as the participation of various members of "Los Masetos" paramilitary group and State agents, the Court observed that said Judicial Commission was investigating the disappearance case of the *19 Comerciantes* [19 Tradesmen], among others, which was perpetrated by the ACDEGAM paramilitary group, and which had the support of and close links with senior leaders of the State security forces.<sup>17</sup> These factors need to be taken into account to assess the number of persons that took part in the massacre and the motive.

62. Therefore, it is essential that the State, in order to comply with its obligation to investigate, observe the criteria mentioned by the Court in its Judgment and inform the Court to that end. It is especially important to observe the criteria that ensure due diligent in the investigation.<sup>18</sup>

<sup>13</sup> See Case of the Rochela Massacre V. Colombia, supra note 6, para. 201.

<sup>14</sup> See Case of the Rochela Massacre V. Colombia, supra note 6, para. 202.

<sup>15</sup> See Case of the Rochela Massacre V. Colombia, supra note 6, para. 158.

<sup>16</sup> See Case of the Rochela Massacre V. Colombia, supra note 6, para. 74.

<sup>17</sup> See Case of the Rochela Massacre V. Colombia, supra note 6, para. 90 and 157.

<sup>18</sup> It is worth emphasizing the following criteria: all necessary measures must be adopted in order to prevent the systematic patterns that led to the commission of serious human rights violations; development of logical lines of investigation that take into account the factors to which the Court refer



63. Moreover, according to information submitted to the Court, two people associated with the criminal investigation into the facts of this case and against whom pretrial detention was ordered (*supra* Considering clause 60(d)) were proposed by the National Government as beneficiaries of the benefits contemplated in Law 975 of 2005 (Justice and Peace Law) and had made spontaneous declarations. The parties have not informed the Court whether the competent authorities had made any decision determining whether such persons do or do not meet the eligibility requirements for the benefits contemplated in the aforementioned law. However, the Tribunal notes that in these spontaneous declarations, the persons had not provided information related to the case facts.

64. Furthermore, the Court refers to its Judgment on the principles, guarantees and obligations that the juridical framework on the demobilization process must observe, such as Law 975 and other laws. As the Court indicated, State agents and authorities are obligated to guarantee that national laws and their application conform to the American Convention.<sup>19</sup> Moreover, the Court refers to that set forth in said Judgment on the concession of legal benefits to members of illegal armed groups—identified as being part of a complex structure of serious human rights violations—but said members allege that they took no part in such violations, requires the utmost due diligence on behalf of the competent authorities to verify that the beneficiary did not participate in the structure responsible for committing such crimes.<sup>20</sup>

65. Regarding the arguments presented by the parties concerning Law 1312 of 2009 and the regulation of the principle of opportunity, this Tribunal refers to that provided for in the Judgment on the case of *Manuel Cepeda Vargas V. Colombia*<sup>21</sup>.

66. The Tribunal values the information submitted by the State, inasmuch as it shows the willingness to comply with its international obligations to investigate the facts and, if applicable, punish those persons responsible for the human rights violations that were declared in the instant case. The Court deems it necessary for the State to forward updated and complete information on the criminal proceeding currently underway and those that have yet to begin before the Supreme Court of Justice, covering the observance of the criteria established by the Court regarding the appropriate manner in which to fully and effectively comply with the obligation to investigate, including the criteria mentioned in Considering Clause 62 of this Order. The State must include information related to the preliminary examination statements to be taken, the apprehension orders pending execution, the actions taken in that regard and, if

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that denote a complex structure of individuals involved in the planning and execution of the crime; to conduct an exhaustive investigation into the operational structure of the paramilitary groups and their linkages and relationships with State agents; including the participations of high ranking military authorities and other state agents and in particular, the possible responsibility of the commanders of the military battalions located within the area of operations of the paramilitary groups tied to the massacre; and to take into account the relationship that exists between the massacre of La Rochela and the case of the disappearance of the 19 tradesmen. Furthermore, the Tribunal indicated that the findings in such proceedings shall be publicized by the State in such a way as to enable the Colombian society to know the truth regarding the events of the instant case. Case of the Rochela Massacre V. Colombia, *supra* note 6, paras. 156 to 158, 164 and 295.

<sup>19</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 192-198.

<sup>20</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 293.

<sup>21</sup> Case of Manuel Cepeda Vargas V. Colombia. Preliminary Objections, Merits and Reparations. Judgment of May 26, 2010. Series C No. 213, para. 216.f).

applicable, it must explain the reasons why they were not executed. Also, it must indicate whether the investigation has been referred to the Supreme Court of Justice and the progress made in such investigation and explain on what charge or charges former Lieutenant Luis Enrique Andrade Ortiz is being investigated, taking into account the decision adopted by the Court in its Judgment regarding the violation of the principle of the competent, independent and impartial court [*juez natural*] which led to an order being passed, in favor of Lieutenant Luis Enrique Andrade Ortiz, to close the case on the homicide charge.

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***To protect the justice administrators, witnesses, victims and next-of-kin***

67. With regard to the obligation to guarantee that legal officials, public prosecutors, investigators, and other justice system employees have adequate security and protection, and ensure the effective protection of witnesses, victims, and their next of kin in cases of serious violations of human rights, in particular, with regard to the investigation of the events of the present case (operative paragraph ten of the Judgment). In its report of April 14, 2009, the State communicated that, by means of an agreement entered into with the European Commission "it is conducting a proceeding to define a strategy and a structure to provide protection services" and that, as part of this proceeding, the State prepared a report on how the current protection programs are carried out, which contains recommendations that are being analyzed. On that occasion, it also requested the Court, "taking into account the fact that the State already has protection systems for victims, witnesses and justice administrators, to assess the different actions being taken to strengthen the existing protection programs and, to that end, declare that Colombia is complying with this reparation measure." Afterwards, it communicated that "a reform of the protection programs in general is currently being implemented in Colombia and while doing so the reparation measure ordered by the Inter-American Court in this case has been taken into consideration." In its report of March 24, 2010, it argued that, in accordance with the results of a consultancy service, a draft was prepared of a bill that seeks to create a Comité Coordinador del Sistema Nacional de Protección [Coordinating Committee of the National System of Protection] and that the Interior and Justice Ministry shall be the authority in charge of presenting the final document before the Congress of the Republic. The State manifested that the text was brought to the attention of the victims' representatives, "whose observations on general aspects of the text were received." Furthermore, it indicated that "it is within the scope of power of the State to choose the mechanisms to comply with the reparation measure" ordered by the Court and that "in compliance with the [J]udgment, it cannot adopt isolated general policy reform measures for the protection programs and it will periodically forward information on its progress [...] to the Court."

68. In the observations of May 22, 2009, the representatives stated that the State announced the report prepared within the framework of the agreement with the European Commission. In that respect, they expressed their disagreement with the report since it does not take into account other national or international studies on the matter, and furthermore, they consider that it does not analyze the impact that the protection strategies may have on the effectiveness of the investigations, nor does it analyze factors that create risks for legal officials, victims and witnesses. Moreover, they expressed their concern over indications made by State representatives which stated that they consider the current protection programs in Colombia to be sufficient, and that with such programs the State would comply with this measure. The representatives

emphasized the need for the State to: demonstrate the actions it has taken following the Judgment to improve the protection programs; prove that these actions have effectively improved the protection of legal officials, victims and witnesses; and, make a proposal regarding the impact indicators that would be used to assess the effectiveness of the protection programs. Then, in the observations of January 4, 2010, they further alleged that the State should "inform the representatives" about the bill that seeks to create a Coordinating Committee of the National System of Protection and report, in a timely fashion, on the progress made in the legislative process." Finally, the representatives sustained that "in this case, the inefficiency of the protection mechanisms is evident, in which, despite the existence of provisional measures in favor of some next-of-kin, [they] suffered new attacks" between January and April 2010. They requested the Court to continue monitoring compliance with this measure.

69. The Commission manifested that it "value[d] the information presented by the State," but that "in light of the observations presented by the representatives, it consider[ed] it [was] necessary to learn about the progress made in relation to the proposal." Then, it indicated that "it t[ook] note of the bill submitted to Congress; [however], it does not have sufficient information regarding the impact of the Judgment of the Court on the proceedings to avoid the recurrence of the events and guarantee that the judicial employees have a system of adequate security and protection."

70. The Court values that the State has adopted measures to evaluate the operation of its protection system and that it is reforming the protection programs in general, taking into account the reparation measure ordered by the Tribunal in this case. The Court requests the State to present updated information on the progress made in said reform and its impact on guaranteeing a system of adequate security and protection and that, while doing so, make reference to the observations presented by the representatives.

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### ***Medical and psychological treatment***

71. With regard to the duty to immediately provide, without cost, the medical and psychological treatment needed by the next of kin of the deceased victims, surviving victim Arturo Salgado Garzón and his next of kin (operative paragraph eleven of the Judgment). The Court received information from the State, the representatives and the Inter-American Commission, by means of briefs and as part of the private hearing on the procedure to monitor compliance held together with seven other cases regarding Colombia (*supra* Having Seen 13 to 15).

72. The Tribunal shall rule, in a timely fashion, on the compliance with this reparation measure in the instant case as well as the seven other Colombian cases, given that it is monitoring compliance with this measure for all eight cases together. To that end, the Tribunal shall take into account the information presented by means of briefs in said cases as well as the information forwarded at said hearing on monitoring compliance.

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### ***Training in human rights education within the Colombian armed forces***

73. Regarding the obligation to continue to implement and, if applicable, develop permanent human rights education programs within the Colombian armed forces, and guarantee their effective implementation (operative paragraph twelve of the Judgment), Colombia requested the Court to “take into account the information provided by the State in the procedure to monitor compliance with the Judgment in the case of the “Mapiripán Massacre” in which it gave details of the different activities carried out to implement programs on human rights education, and international humanitarian law, within the armed forces of the country.” In that respect, it requested the Tribunal to declare that Colombia had complied with operative paragraph twelve of the Judgment “bearing in mind that the obligation ordered in this case is similar to the one ordered in the case of the ‘Mapiripán Massacre’ and ‘Ituango Massacre,’ in which the Court has already declared compliance therewith.”

74. The representatives did not present observations on the compliance with this reparation measure.

75. The Commission indicated that “as in the case of Mapiripán, [...] it value[d] that the State [was] implementing, within its armed forces, the courses on human rights and international humanitarian law [...].”

76. The Court notes that the reparation measure ordered in the instant case<sup>22</sup> related to human rights training within the Colombian armed forces is similar to the training measures that Colombia was ordered to implement in the cases of the *Mapiripán Massacre* and the *Ituango Massacre*. In the three judgments, the Tribunal ordered the implementation of permanent programs on human rights within the Colombian armed forces. In fact, in the cases of the *Mapiripán Massacre* and the *Ituango Massacre*, the Court has already declared compliance with this measure by means of Orders issued in July 2009.<sup>23</sup>

77. Based on the similarity of the training measures ordered by the Court and taking into account the State's request to admit, in this case, the information presented on compliance with the training measure in the case of the *Mapiripán Massacre*, which was not objected to by the representatives, the Tribunal considers it useful, based on the principle of procedural economy, to admit such information into the case file, taking into account that the Commission as well as the representatives have had the opportunity to present observations on the matter in the case of the *Mapiripán Massacre*.<sup>24</sup>

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<sup>22</sup> In operative paragraph twelve and paragraph 303 of the Judgment, the Court ordered:

[...] the State must adopt measures designed to educate and train members of security forces on the principles and rules governing the protection of human rights and international humanitarian laws, including limitations that constrain them. To that end, the State [should] effectively implement, within a reasonable time, permanent training programs on human rights for the Colombian armed forces. The program sh[ould] place particular stress on this Judgment and the State [should] guarantee its effective implementation.

<sup>23</sup> See Case of the Ituango Massacres V. Colombia; *supra* note 8, Considering Clauses 45 to 50; Case of the Mapiripán Massacre V. Colombia; *supra* note 8, Considering Clauses 62 to 64.

<sup>24</sup> In a similar sense, see *Case of the Ituango Massacres V. Colombia*; *supra* note 8, Considering Clauses forty-nine.

78. In the case of the *Mapiripán Massacre*, the Court valued the information submitted and considered that the State "complied with the reparation measure to design and development of human rights and international humanitarian law training programs, on the understanding that these are permanent programs."<sup>25</sup> In the case of the *Ituango Massacres*, the Tribunal, in relation to said compliance, indicated that "given the same reparation measure is being analyzed and for the reasons indicated [in the Order of the case of the *Mapiripán Massacre*], it consider[ed] that the State ha[d] complied with the terms of operative paragraph 21 of the Judgment" regarding the measures of human rights training.<sup>26</sup>

79. The Court values that the training measures ordered and regarded as complied with in the cases of the *Mapiripán Massacre* and the *Ituango Massacre* make it possible to achieve the same training measure objective ordered in the case of La Rochela Massacre. The measure strives to contribute to the prevention of violations by means of human rights education aimed at members of the Armed Forces.

80. Based on the foregoing considerations, and since in the cases of the *Mapiripán Massacre* and the *Ituango Massacres* the Court declared compliance with the training measures in the understanding that the programs implemented by the State would be permanent, and the representatives did not present any observations on the matter, and the Commission valued the programs being implemented by the State, this Tribunal concludes that Colombia has complied with operative paragraph twelve of the Judgment.

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### ***Payment of compensation and reimbursement of costs and expenses***

81. In relation to the obligation to pay the amounts set as pecuniary damages, non-pecuniary damages, and costs and expenses (*operative paragraph thirteen of the Judgment*), the State informed that, "by means of the Orders of August and October 2008, the Interior and Justice Ministry paid compensation to the victims' next-of-kin" and it attached copies of the three Orders. By means of a brief of April 15, 2009, (*supra* Having Seen 9), the State acknowledged that a tax, known as "four per thousand," was deducted from the compensatory amounts that were deposited in the victims' bank accounts; the tax is a levy on the transactions conducted by the financial system, which is collected by the financial institutions and subsequently forwarded to the State. Colombia stated that "the financial institutions with which the beneficiaries of the compensatory amounts have their personal bank accounts, through which the amounts ordered in the [J]udgment were paid, had collected the tax." Therefore, it reported that the Interior and Justice Ministry (body in charge of making the payment) contacted the Dirección de Impuestos y Aduanas Nacionales [Internal Revenue and Customs Service] (DIAN) and made inquiries about the "proceeding to reimburse unduly collected taxes." Furthermore, it indicated that said ministry "has submitted the information provided by DIAN to reimburse the taxes paid by each of the beneficiaries who had requested the reimbursement" and that it will send this information to the representatives. In addition, it stated that "no communication has been presented on the outcome of the measures adopted or whether that they had had an adverse effect on the beneficiaries" and "if the beneficiaries receive a negative response from the financial institutions in charge of

<sup>25</sup> *Case of the "Maripirán Massacre" V. Colombia, supra* nota 8, Considering Clause 64.

<sup>26</sup> *Case of the Ituango Massacres V. Colombia; supra* note 8, Considering Clause fifty.

refunding the transaction tax" it offered, "to take the necessary steps before the competent instances to ensure that people receive the refund." Subsequently, the State, "considering the victims' representatives indicated that the payment of the compensations had been completed, [...] it request[ed] the Tribunal to declare compliance with operative paragraph thirteen of the [J]udgment".

82. In its observations of May 22, 2009 and January 4, 2010 (*supra* Having Seen 11), the representatives acknowledged that "the State had paid the compensation ordered by the Court" and made no reference to the result of possible actions taken to obtain the refund for money deducted as tax (*supra* Considering Clause 81). Furthermore, the representatives forwarded a brief in which some next-of-kin expressed, *inter alia*, their disagreement with the response given by the authorities of the Interior and Justice Ministry regarding the procedure they should follow in order to be paid the compensation if one of the relatives, declared to be entitled to compensation in the Judgment, were to die (*supra* Having Seen 11). In addition, some next-of-kin of one of the deceased victims (*supra* Having Seen 7) complained about the payments made by the State, indicating that they were less than they should have been.

83. The Commission observed, *inter alia*, that it "value[d] the information regarding the payments and the measures to refund the tax collected" and noted that "[t]he representatives repeated that they confirmed the payments were made."

84. In addition to the foregoing, the representatives brought some matters before the Court related to the State's decision to pay the compensations directly to the beneficiaries and not through their representatives, which they consider "to affect the victims and their next-of-kin inasmuch as such act disregards the legal representation that the Colectivo de Abogados José Alvear Restrepo [José Alvear Restrepo Legal Cooperative] provides on their behalf" (*supra* Having Seen 4). The State and the Commission presented observations on this matter (*supra* Having Seen 5). The Court and its Presidency ruled on said arguments by means of notes of March 28 and May 16, 2008 (*supra* Having Seen 6).<sup>27</sup> Likewise, the Court refers to its decision in relation to the alleged problems between some victims and the representatives regarding a percentage charged by the representatives as a fee (*supra* Having Seen clauses 7 and 8).<sup>28</sup>

85. This Court has verified that, as informed by the State, by means of Resolutions N° 2402, N° 2444 and N° 3114 issued by the Ministry of Interior and Justice on August 25 and 28 and October 28, 2008, compensation payments for pecuniary and non-pecuniary damage were ordered, as well as the reimbursement of legal costs and

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<sup>27</sup> Following the instructions of the Presidency of the Tribunal, it was communicated to the parties that, according to the provisions of paragraph 308 of the Judgment, "it [did] not note arbitrary conduct by State when it intends to pay the compensations ordered by means of the deposit in said bank accounts of the beneficiaries of the reparations". Furthermore, it indicated that "it did not observe an impairment of the right of the beneficiaries to appoint legal representatives, in the understanding that the representatives c[ould] act on their behalf at the domestic level and before this Court in the event the payments to be made by the State [were] contrary to what was stipulated in the [...] Judgment."

The Tribunal decided that "if the victims or their next-of-kin confer a specific power-of-attorney to a third party to receive the payments ordered in the [...] Judgment, after notice thereof, which shall have to comply with the legal requirements established by the domestic legislation, the payment ordered in paragraph 308 of the Judgment [could] be made through an agent."

<sup>28</sup> By means of note of the Secretariat, it was indicated that "the Inter-American Court ha[d] previously mentioned that "it is not competent to rule on the agreements the victims may enter into with their representatives in relation to professional fees" and that "any controversy that may arise for these facts shall be settled at the domestic level before the competent local authorities."

expenses. Moreover, in these Resolutions it stated that, to carry out these payments in Colombian tender, the State used the exchange rate from the day prior to the payment date, and that the interest on arrears were taken into account at the moment of the deposit, in a joint account, of some of the compensations owed. However, the Court has noted that Resolutions N° 2402 and N° 3114 make reference to other two resolutions (N° 1468 of June 4, 2008 and N° 2608 of September 10, 2008), by which payments were ordered, but which were not presented to this Court.

86. In that respect, the representatives sustained that the State has made payments, without indicating whether a payment were pending or incorrect, and the Commission valued the information presented by the State and noted that the representatives confirmed that the State paid. According to the information in the case file (*supra* Considering Clause 85), the Court positively values that the State has made most of the compensation payments and the reimbursement of legal costs and expenses ordered in the Judgment, and it has adopted adequate measures to refund the amounts that victims were taxed (*supra* Having Seen clauses 8 and 9 and Considering Clause 81). However, based on various contributions to the case file, the Court cannot deem this aspect to be fully fulfilled. Firstly, the resolutions in the case file (*supra* Considering Clause 85) do not provide information on whether the settlements and payments of the compensation were made in favor of the following victims: Pablo Antonio Beltran Palomino, Yul Germán Monroy Ramírez, Gabriel Enrique Vesga Fonseca and Arnulfo Mejía Duarte or their next-of-kin.<sup>29</sup> Therefore, the Court deems it necessary for the State to forward Resolutions N° 1468 and N° 2608 (*supra* Considering Clause 85) or any additional information that confirms the corresponding payment of compensation to the four victims or their next-of-kin. Secondly, it has been demonstrated that a tax known as “four per thousand” was deducted from the compensation deposited in the bank accounts of the victims, and the Court does not have the necessary information to determine whether the amount deducted was refunded to each of the beneficiaries. In this respect, the Tribunal deems it appropriate to remind that in the Judgment it was set forth that “[t]he amounts awarded in this Judgment as compensation and reimbursement of costs and expenses shall not be affected, reduced or subject to existing or future taxation.”<sup>30</sup> Therefore, it necessary to request the parties to give detailed information on the matter.

87. Thirdly, by means of communications of June 9 and 12, 2008 (*supra* Having Seen 7), Mr. Orlando Castillo Zapata, brother of deceased victim Carlos Fernando Castillo Zapata, alleged, *inter alia*, that the State paid his mother and father incorrect amounts as compensation for lost income. They mentioned that “when deducting the amount awarded in the domestic contentious administrative proceedings, [the State authorities] included the interest paid to them due to the inefficiency of the [S]tate itself and thus, the State discounted double the amount set forth in the resolution ordered by the domestic contentious court.” In this regard, the Court recalls that, in its Judgment, it positively valued that Colombia had paid compensation for lost income by means of contentious administrative proceedings and, therefore, it ordered, when paying compensation ordered by this Court in paragraph 248 as loss of income to the 12

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<sup>29</sup> According to Resolution N° 2402 of the Ministry of Interior and Justice, the beneficiaries of the compensation corresponding to Pablo Beltrán Palomino had not presented a bank certification for the respective payment and “therefore, the settlement and corresponding payment is pending.” No further information has been furnished to the Court in order to confirm whether such calculation and payment were effectively made.

<sup>30</sup> Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 311.

deceased victims, “the State may deduct, from each family, the amount awarded to that family in the domestic contentious administrative proceedings for lost income” and “[i]f the award ordered in the internal proceedings is greater than the award ordered by this Tribunal in the present Judgment, the State may not demand that the victims return the difference.”<sup>31</sup> Therefore, although Colombia could make deductions when paying the compensation following the above mentioned criteria, the Court deems it pertinent for the State to refer to what said victims’ next-of-kin indicated in relation to the payment of compensation for lost income.

88. As for the payment of compensation to those beneficiaries who died prior to such payment, in one of the briefs presented by the representatives of nine next-of-kin, they expressed their disagreement with the obligation to process a succession in order to determine the persons entitled to the compensatory amounts that corresponded to the deceased (*supra* Having Seen 11). The State made no specific reference to this aspect in its reports; however, the Court notes that in Resolutions N° 2402, N° 2444 and N° 3114 issued by the Interior and Justice Ministry, in which ordered some of the payments, it was stated that “in order to comply with paragraph 238 of the [J]udgment, the beneficiaries must present, in order to receive the payment, the public deed or judgment of a competent court indicating the division of the compensation among the according to the domestic inheritance law.” Moreover, Resolution N° 3114 specifically stipulates that the successors of Gilberto Morales Tellez, Rosinda Muñoz de Hernández, Gabriel Vesga Zanabria, Maria Antonia Cepeda de Morales, Elena Garzón widow of Salgado, Blanca Herrera Suárez and Gabriel Hernández Muñoz “ha[d] not presented the public deed or the judgment of a competent court indicating the division of the compensation ordered by the Court [...], therefore, the State shall deposit the amount in Colombian pesos in the joint account, according to the terms of paragraph 309 of the [J]udgment.” As a result, in accordance with this resolution, the State deposited, in a joint account, the amounts corresponding to three of the nine next-of-kin who signed said brief presented by the representatives. Regarding three others, next-of-kin of deceased victim Luis Orlando Hernandez Muñoz, the Court notes that in Resolution N° 2444, it ordered the payment of the corresponding compensation. As to the claim made in such brief by Mrs. Luz Nelly Carvajal Londoño, widow of deceased victim Yul German Monroy Ramirez, and Mariela Rosas Lozano and Gabriel Enrique Vesga Fonseca, widow and son of deceased victim Gabriel Enrique Vesga Fonseca, the State must still prove to this Court that the compensatory amounts corresponding to Yul Germán Monroy Ramirez and Gabriel Enrique Vesga Fonseca have been paid or awarded<sup>32</sup> (*supra* Considering 87).

89. In this regard, the Court manifested in the Judgment that for deceased persons who were awarded compensation, the payment “shall be made to their heirs pursuant to applicable domestic law.”<sup>33</sup> Furthermore, it indicated that “[i]f the beneficiaries, for reasons attributable to them, were unable to collect the payments within the specified time period [...] the State shall pay the amounts in an account or as a deposit certificate

<sup>31</sup> Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 250.

<sup>32</sup> According to Resolution N° 2402 of the Ministry of Interior and Justice, the beneficiaries of the compensation corresponding to Yul Germán Monroy Ramirez had not presented a bank certification for the respective payment and “therefore, the calculation and corresponding payment is pending”. No further information has been furnished to the Court in order to confirm whether such calculation and payment were effectively made. Likewise, according to Resolution N° 2402, the beneficiaries of the compensation corresponding to Gabriel Enrique Vesga Fonseca “h[ad] not presented the bank certification for the corresponding payment” and no further information has been furnished confirming whether such calculation and payment were made.

<sup>33</sup> Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 238 and 308.



with a sound Colombian financial institution, in United States Dollars, in the most favorable financial terms possible under legislation and banking practice.”<sup>34</sup> Therefore, those persons who consider themselves to be heirs of compensation awarded to deceased beneficiaries must comply with the proceedings and requirements stipulated by the applicable domestic law so as to determine that they are the successors of the deceased person. Moreover, the State has the obligation deposit the compensation so that the successors may then claim such amounts and “[i]f the compensation is unclaimed after ten years, the amounts plus interest accrued shall be returned to the State.”<sup>35</sup> The Court has verified that, according to the provisions of said resolutions of the Interior and Justice Ministry, the State had complied with the obligation to deposit the compensation for the successors of the persons “who had not presented a public deed or judgment of a competent court indicating the division of the compensation ordered by the Court.”

90. Moreover, by means of a communication of August 5, 2010, Mrs. Luz Marina Poveda León, widow of deceased victim Cesar Augusto Morales Cepeda, complained that the State failed to pay her the amount of USD 2,000 (two thousand United States dollars) pertaining to the family of said deceased victim as expenses (*supra* Having Seen 16). In that respect, the Court notes that in Resolution N° 3114 issued by the Interior and Justice Ministry on October 28, 2008, it was ruled that an equivalent amount in Colombian pesos be deposited “in a joint account according to Paragraph 309 of the Judgment” because the victim’s next-of-kin “had not presented to [said] Ministry [...] a written communication designating a representative to receive the compensation for legal costs and expenses.” Moreover, the Court recalls that, in Paragraph 305 of the Judgment, the Court ordered that Colombia pay the amount of USD 2,000.00 (two thousand United States dollars or its equivalent in Colombian tender) to each deceased victim’s family and to surviving victim Arturo Salgado Garzón, and in order to collect the amounts “[t]he family units of the deceased victims should designate a person to receive the abovementioned amounts.” In addition, in the Interpreting Judgment (*supra* Having Seen 2), the Tribunal considered that if the family group does not appoint a person to receive the payment for expenses or if the family group does not come to an agreement on the matter, “it is admissible to proceed in accordance with the Judgment on the form to comply with the compensation.”<sup>36</sup> Hence, it falls upon the family group of deceased victim Cesar Augusto Morales Cepeda to communicate to State authorities the person appointed to receive the amount deposited by the State in said joint account as reimbursement of expenses.

91. By means of communication of June 9 and 12, 2008, Mr. Orlando Castillo Zapata, brother of deceased victim Carlos Fernando Castillo Zapata, stated, *inter alia*, that on June 7, 2008, the State paid him and his brothers the compensation agreed upon in the partial agreement on reparations, but that the amount paid was lower than the amount agreed upon. Neither the State nor the representatives referred to this allegation put forward by Mr. Castillo Zapata. However, the Court has verified that in Resolution N° 2402 issued by the Interior and Justice Ministry on August 25, 2008, it was decided to “repay the compensation for non-pecuniary damage” to Mr. Orlando Alonso Castillo Zapata and the other brothers of deceased victim Carlos Fernando Castillo Zapata. After the communication of June 2008 and the issuance of said resolution by the Interior and

<sup>34</sup> Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 309.

<sup>35</sup> Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 309.

<sup>36</sup> See Case of the Rochela Massacre V. Colombia, *supra* note 6, para. 309; Case of the Rochela Massacre V. Colombia. Interpretation of the Judgment on the Merits, Reparations and Legal Costs. Judgment of January 28, 2008. Series C N°. 175, para. 33.

Justice Ministry, the Court has not received any communication from Mr. Castillo Zapata objecting to the compensation that was repaid by Colombia to him and his brothers. The Court understands that the corresponding State authorities have settled the issue raised by Mr. Castillo Zapata.

92. Based on the above considerations, the Court declares that the State has partially complied with operative paragraph thirteen of the Judgment and requests the State, the representatives and the Inter-American Commission to forward to the Tribunal the information necessary to determine whether the amounts deducted as tax were adequately returned. Moreover, the Court requests the State to refer to claims made by the brother of victim Carlos Fernando Castillo Zapata (*supra* Having Seen 7 and Considering Clause 87) who stated that his mother and father had received smaller amounts than their entitlement for lost income. Moreover, the Court requests the State to forward a copy of Resolutions N° 1468 and N° 2608 of the Interior and Justice Ministry and any other information confirming the settlement and payment of the compensation owed to victims Pablo Antonio Beltrán Palomino, Yul Germán Monroy Ramirez, Gabriel Enrique Vesga Fonseca and Arnulfo Mejia Duarte and her next-of- kin (*supra* Considering Clause 86 and 88).

**THEREFORE:**

**THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

in exercising its power 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 31 and 69 of its Rules of Procedure,<sup>37</sup>

**DECLARES THAT:**

1. The State has fully complied with the obligations to:
  - a) Modify the text and relocate the commemorative plaque that was at the Office of the Prosecutor General (*operative paragraph eight and paragraph 277(I)(3) of the Judgment*),
  - b) Issue a publication on the facts of La Rochela Massacre (*operative paragraph eight and paragraph 277(I)7 of the Judgment*),
  - c) Request the Superior Council of the Judicature that the Courthouse of the municipality of San Gil be given a name that evokes the memory of the victims (*operative paragraph eight and paragraph 277(I)(8) of the Judgment*),
  - d) publish in a widely circulated national newspaper, a "summary of the key elements in the instant case" (*operative paragraph eight and paragraph 277(II)(1) of the Judgment*),
  - e) Refer the Court's Judgment to the National Reparations and Reconciliation Commission (*operative paragraph eight and paragraph 277(II)(2) of the Judgment*); and,

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<sup>37</sup> Approved by the Court during its LXXXV Ordinary Period of Sessions, held from November 16 to 28, 2009.

- f) Implement training programs on human rights for the Colombian Armed Forces (*operative paragraph twelve of the Judgment*).
2. The State has partially complied with the obligations to:
- a) Install a commemorative plaque and a photographic gallery of the victims in a visible place at the Courthouse of San Gil Municipality, Santander department (*operative paragraph eight and paragraph 277(I)(1) of the Judgment*); and,
- b) To pay the compensation and reimburse the costs and expenses (*operative paragraph thirteen of the Judgment*).
3. The State has been complying with and must continue implementing the following reparation measures:
- a) As a "best effort obligation", it "shall continue providing educational assistance (scholarships) for the victims' next of kin for state or private, secondary, technical and higher education institutions in Colombia" (*operative paragraph eight and paragraph 277(III)(1) of the Judgment*); and,
- b) The Colombian Prosecutor's Office shall continue offering job vacancies for the victims and their next of kin, "insomuch as they meet the standards required to occupy the positions" (*operative paragraph eight and paragraph 277(III)(2) of the Judgment*).
4. The State, the representatives and the Commission have reported on the measures adopted to comply with the obligation to provide the medical and psychological treatment needed by the next of kin of the deceased victims, as well as surviving victim Arturo Salgado Garzón and his next of kin (*operative paragraph eleven of the Judgment*), which shall be assessed by the Tribunal in a subsequent Order.
5. It will keep the procedure to monitor compliance with the following outstanding obligations open, namely:
- a) To install a commemorative plaque and a photographic gallery of the victims in a visible place at the Courthouse of San Gil Municipality, Santander department (*operative paragraph eight and paragraph 277(I)(1) of the Judgment*),
- b) To place a commemorative plaque in Paloquemao judicial complex in the city of Bogotá (*operative paragraph eight and paragraph 277(I)(2) of the Judgment*),
- c) To report, in the television program of the judicial branch, on the events of The Rochela Massacre, the State's partial recognition of responsibility and the Judgment (*operative paragraph eight and paragraph 277(I)(4) of the Judgment*),
- d) To establish a diploma course on Human Rights, which will include the study of this case (*operative paragraph eight and paragraph 277(I)(5) of the Judgment*),
- e) To establish a scholarship for a specialization in human rights, which shall be named so as to evoke the memory of the victims (*operative paragraph eight and paragraph 277(I)(6) of the Judgment*),

- f) A “best efforts obligation” to “contin[ue] providing educational assistance (scholarships) for the victims’ next-of-kin for state or private, secondary, technical and higher education institutions in Colombia” (*operative paragraph eight and paragraph 277(III)(1) of the Judgment*),
- g) The Office of the Prosecutor General shall continue offering job vacancies to the victims and their next of kin, “insofar as that they meet the standards required to occupy the positions” (*operative paragraph eight and paragraph 277(III)(2) of the Judgment*),
- h) To investigate the facts, identify, prosecute and, if applicable, punish the responsible (*operative paragraph nine of the Judgment*),
- i) To protect the justice officials, witnesses, victims and next-of-kin (*operative paragraph ten of the Judgment*),
- j) To provide the medical and psychological treatment needed by the next-of-kin of the deceased victims, as well as surviving victim Arturo Salgado Garzón and his next-of-kin (*operative paragraph eleven of the Judgment*); and,
- k) To pay the compensation and reimburse the costs and expenses (*operative paragraph thirteen of the Judgment*).

**AND DECIDES:**

1. To require the State to adopt the necessary measures to effectively and immediately comply with the outstanding operative paragraphs that were ordered by the Tribunal in the Judgment, according to the provisions of Article 68(1) of the American Convention on Human Rights.
2. To request the State to submit, no later than January 14, 2011, a report containing detailed, updated and precise information on the aspects of the Judgment pending compliance.
3. To call upon the representatives of the victims and their next-of-kin and the Inter-American Commission on Human Rights to submit their observations to the State’s report referred to in the preceding operative paragraph, within a period of four and six weeks, respectively, following the receipt thereof.
4. To continue monitoring the aspects of the Judgment on merits, reparations and legal costs of May 11, 2007 that are still pending compliance.
5. To require the Secretariat of the Court to notify this Order to the State of Colombia, the Inter-American Commission and the representatives of the victims and their next-of-kin.

Diego García-Sayán  
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri  
Secretary

So directed,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary