

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

**OF DECEMBER 22, 2010**

**CASE OF THE ITUANGO MASSACRES V. COLOMBIA.**

**MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The Judgment on merits, reparations and costs (hereinafter "the Judgment") passed by the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal") on July 1, 2006.
2. The Order on monitoring compliance with Judgment passed by the Court on July 7, 2009, whereby it ruled that:
  1. In accordance with the provisions of Considering Clauses 50, 54 and 72 of the [...] Order, the State has complied with the obligation to:
    - a) implement, within a reasonable time, permanent education programs on human rights and international humanitarian law within the Colombian Armed Forces (*operative paragraph twenty-one of the Judgment*);
    - b) publish in a nationally circulated newspaper, on a sole occasion, the chapter on the proven facts of the Judgment, without the corresponding footnotes, and the operative paragraphs of the Judgment (*operative paragraph twenty-two of the Judgment*); and,
    - c) pay the amounts awarded as reimbursement of costs and expenses incurred domestically and in international proceedings before the inter-American Human Rights Protection System (*operative paragraph twenty-five of the Judgment*).
  2. In accordance with the provisions of Considering Clause 71 of the [...] Order, the State has partially complied with its obligation to pay the persons listed in Annexes I, II and III of the Judgment compensation for pecuniary and non-pecuniary damages (*operative paragraphs twenty-three and twenty-four of the Judgment*).
  3. In accordance with the provisions of [...] the [...] Order, the following obligations are pending compliance:
    - a) carry out the necessary steps to provide justice in the case (*operative paragraph fifteen of the Judgment*);

- b) provide the appropriate treatment, free of charge, as required by the families of victims executed in the case (*operative paragraph sixteen of the Judgment*);
- c) take the necessary actions to guarantee security so that former residents of the villages of El Aro and La Granja, who have been displaced, can return to El Aro or La Granja, as appropriate and if they so desire (*operative paragraph sixteen of the Judgment*);
- d) hold a public ceremony to acknowledge international responsibility for the facts of the case, in the presence of senior officials (*operative paragraph eighteen of the Judgment*);
- e) implement a housing program through which it provides adequate housing to the surviving victims who lost their homes and who require such housing (*operative paragraph nineteen of the Judgment*);
- f) install a plaque in a suitable public location in La Granja and El Aro, so that new generations are aware of the facts of the case (*operative paragraph twenty of the Judgment*);
- g) publish in the Official Gazette, on a sole occasion, the chapter on proven facts of the Judgment, without corresponding footnotes, and the operative paragraphs of the Judgment (*twenty-second operative paragraph of the Judgment*), and
- h) pay the persons listed in Annexes I, II and III of the Judgment compensation for pecuniary and non-pecuniary damages (*operative paragraphs twenty-three and twenty-four of the Judgment*).

3. The letter of November 17, 2009, whereby the Republic of Colombia (hereinafter "the State") submitted its third report on compliance with the Judgment.

4. The brief of April 5, 2010, whereby the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted its observations on the State report (*supra* Having Seen 3).

5. The Order of the President of the Court of April 29, 2010, in which the State, the representatives and the Inter-American Commission were convened to a private hearing on monitoring compliance to analyze the implementation of the reparation measure provided for in operative paragraph six of the Judgment, concerning the medical, psychiatric and psychological treatment as well as similar reparation measures ordered in seven other cases<sup>1</sup>.

6. The private audience on monitoring compliance held on May 22, 2010 at the headquarters of the Court to address the issue of the reparation measures on medical, psychiatric and psychological treatment.

7. The order of the Court of May 25, 2010, whereby it resolved to authorize the State to pay a percentage of the compensation awarded to the three sons of Ms. María Oliva Calle, child victims, so as to purchase a home.

8. The letter of July 26, 2010, whereby the representatives of victims (hereinafter "the representatives") presented their observations and certain information requested in the Order of July 7, 2009.

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<sup>1</sup> *Case of 19 Tradesmen v. Colombia. Merits, Reparations and Costs.* Judgment of July 5, 2004. Series C No. 109; *Case of Gutiérrez Soler v. Colombia. Merits, Reparations and Costs.* Judgment of September 12, 2005. Series C No. 132; *Case of the "Mapiripán Massacre" v. Colombia. Merits, Reparations and Costs.* Judgment of September 15, 2005. Series C No. 134; *Case of the Pueblo Bello Massacre v. Colombia. Merits, Reparations and Costs.* Judgment of January 31, 2006. Series C No. 140; *Case of La Rochela Massacre v. Colombia. Merits, Reparations and Costs.* Judgment of May 11, 2007. Series C No. 163; *Case of Escué Zapata v. Colombia. Merits, Reparations and Costs.* Judgment of July 4, 2007. Series C No. 165 and *Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs.* Judgment of November 27, 2008. Series C No. 192.

9. The communication of August 23, September 7 and October 5, 2010, whereby the representatives of the victims, the Illustrious State and the Inter-American Commission, respectively, referred to the representatives' request made to the Tribunal for an additional payment by the State so that the three child victims could purchase a home.

**CONSIDERING:**

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

2. Columbia is a State Party to the American Convention on Human Rights (hereinafter "the American Convention") since July 31, 1973 and acknowledged the jurisdiction of the Court on June 21, 1985.

3. Furthermore, Article 68(1) of the American Convention stipulates that "[t]he State Parties to the Convention undertake to comply with the decision of the Court in any case to which they are parties." To this end, States should ensure the domestic implementation of provisions set forth in the Court's rulings<sup>2</sup>.

4. In virtue of the definitive and non-appealable nature of the Court's Judgments, according to the provisions of Article 67 of the American Convention, the State should fully comply with such Judgments.

5. Article 69 of the Rules of Procedure of the Court<sup>3</sup> states that:

1. Supervision of judgments and other court decisions will be made through the presentation of State reports and the corresponding observations on the reports by the victims or their representatives. The Commission must submit observations on the State report and on the observations of victims or their representatives.
2. The Court may request facts relevant to the case, which make it possible to assess compliance, from additional information sources. To the same effect they may also request expert appraisals and reports deemed necessary.
3. When appropriate the Court may convene the State and the representatives of the victims to a hearing to monitor compliance with its decisions, and it will hear the views of the Commission.
4. Once the Tribunal has the relevant information, it will determine the state of compliance with the resolutions and issue any orders it deems appropriate.
5. These provisions also apply to cases not filed by the Commission.

6. The States Parties to the Convention that have recognized the compulsory jurisdiction of the Court have a duty to comply with the obligations provided for by the Court. This includes the duty of the State to report on measures taken to comply with the Court's Orders. Timely fulfillment of the State's obligation to advise the Court how it is complying with each of the points it ordered is essential in order to assess the state of compliance with the Judgment<sup>4</sup>.

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<sup>2</sup> Cf. *Case of Baena Ricardo et al. Panama. Competence*. Judgment of November 28, 2003, Series C. No. 104, para. 131; *Case of Gómez Palomino v. Peru. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of July 1, 2009, Considering Clause three, and *Case of the Sawhoyamaya Indigenous Community v. Paraguay. Monitoring compliance with Judgment*. Order of the President of the Inter-American Court of Human Rights of May 20, 2009, Considering Clause three.

<sup>3</sup> Rules of Procedure of the Court passed at its LXXXV Regular Session, held from November 16 to 28, 2009.

<sup>4</sup> Cf. *Case of Five Pensioners v. Peru. Monitoring Compliance with Judgment* Order of the Inter-American Court of Human Rights of November 17, 2004, Considering Clause five; *Case of the Serrano Cruz Sisters v. El Salvador. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of February 3,

a) *Regarding operative paragraph fifteen of the Judgment*

7. With regard to the obligation to carry out the necessary diligences to investigate the facts of this case, the State reported "that the criminal proceedings [...] are partially at pre-trial stage and therefore subject to secrecy." It reiterated that it carried out two investigations: in one into the events at La Granja, under the charge of Prosecutor No. 5 of the National Unit for Human Rights, the State reported that it had issued an indictment against Fabio León Mejía and acquitted him on June 18, 2009, in addition to collaborating with the Justice and Peace Unit to access sections of Salvatore Mancuso's account of the facts and receipt of his statement in Washington DC." Furthermore, it indicated that an appeal for review is currently before the Supreme Court of Justice in relation to Jose Vicente Castro et al. and several procedural steps have been taken, such as the admission of the petition, notifying the parties involved, various evidence orders, a decision on the appeal filed by the lawyer for the accused and "it is currently at the office of reporting judge." Regarding the facts of the El Aro massacre, the State recalled that it is conducting an investigation at the request of Public Prosecutor's Office No. 17 of the National Human Rights Unit and it referred to certain proceedings, such as the investigation into Isaiah Montes Hernandez in October 2008 and an order for preventive detention against Mr. Isaias Montes Hernandez in October 31 2008, in addition to requesting information from other authorities about criminal proceedings against military commanders and other state agents and verifying the death of "some people mentioned in the investigation." It stated that by October 2009, the proceeding regarding two former police officers was pending trial, and that there were no known threats against witnesses, victims or the justice operators.

8. The representatives stated that the issues raised by the State regarding the reservation of the summary, is contrary to that expressed by the Court in paragraph 12 of Order of July 7, 2009, since it aims "to justify the lack of progress in the investigation." They added that the State has not conducted investigations into the Ituango Massacres seriously, as evidenced for example when "contrasting the statements made by many witnesses, including the assassinated paramilitary Francisco Enrique Villalba, [with] the proceedings performed by the Public Prosecutor's Office to verify their veracity." They stated that "11 years passed without the Colombian judiciary trying or sentencing Isaías Montes aka 'Junior,' who was a respected commander in the urban area of Ituango, who invoked a plea bargain because his application to the Justice and Peace Law was accepted, which means that his sentence related to the Ituango Massacre, cou[ld] be reduced to 8 years in prison." They added that the State had not reported on investigations conducted into the murder of Francisco Villalba, who through several statements had revealed more information about those responsible for the facts. They deemed that the Justice and Peace Law has been an obstacle to achieve sanctions suitable for their crimes.

9. The representatives also reported that Ms. Ortiz Calle, a relative of one of the victims of the El Aro Massacre, and her children have been subjected to threats and kidnappings by paramilitaries labeled as "criminal gangs." They indicated that "the rapid and timely response from the Directorate of Human Rights of the Vice-Presidency" helped "save the lives of young people and regain their freedom four days after their kidnapping." In turn, they expressed their dissatisfaction because the State had not complied with several of the commitments made to ensure the safety of these people.

10. The Commission noted that "the State has offered no systematic information relating to investigations linked to this case, the means used and results achieved to determine if, subsequent to the issuance of the Judgment of the Court, the proceedings [are] sufficient to ensure effective access to justice."

11. The Presidency notes that more than 15 years after the events of the massacres in La Granja and El Aro, in the town of Ituango, and more than four years after the issuance of the Judgment, the information submitted by the State does not clearly show efforts to advance with the investigation into the facts and identify those responsible for serious violations of human rights in relation to those events.

12. As a result, it is necessary that the State provide updated, detailed and complete information on all the actions taken as part of investigations in the domestic legal system into the facts of the massacre of El Aro and La Granja. The State must include the presentation of a copy of the appropriate diligences so taken, information on the current state and scope of the investigation, access that victims and their next-of-kin have to information produced in proceedings, and the measures taken and planned to protect those involved, witnesses and justice operators.

*a) Regarding operative paragraph sixteen of the Judgment*

13. Regarding the State's obligation to provide the adequate treatment required by the next-of-kin of victims executed in the facts of this case, the Presidency recalls that the Court, with regard to this reparation measure, was informed by the State, representatives of victims and the Inter-American Commission, as part of the private hearing on monitoring compliance conducted in conjunction with seven other cases (*supra* Having Seen 5 and 6).

14. The President reminds that through the Order of April 29, 2010 ( *supra* Having Seen 5) it convened all the parties from different cases to a private hearing on monitoring compliance with reparation measures on medical and psychological care ordered in eight Colombian cases. As a result, the President considers that operative paragraph eighteen of the Judgment should be monitored through the aforementioned combined monitoring of compliance, even though, if necessary, relevant and urgent information is received regarding the victims in this case from the State, representatives and the Commission.

*c) Regarding operative paragraph seventeen of the Judgment*

15. Regarding the obligation to take the necessary actions to guarantee security so that former residents of the villages El Aro and La Granja, who have been displaced, can return, the State reported that "after several domestic diligences, on September 28 and 29, 2009 a day for the displaced beneficiaries of the judgment was held so as to fully indentify them, and complete the registration, as a first step by the State towards inclusion in the programs to address displacement. This activity was held in the town of Valdivia, Antioquia, and was proposed by the representatives of the victims for this purpose. The day was coordinated with the Interdisciplinary Group for Human Rights." The State indicated that "during the two days, approximately ninety displaced persons were attended to, of which, forty-three (43) were beneficiaries of the Judgment." It clarified that the representatives presented a list of the family members from Annex IV of the Judgment to the State, but for only 110 people in the list "was there all the information necessary to be attended." The State indicated that "after the end of the registration process, [...] these persons shall be included within the

relevant programs according to their specific needs." Additionally, it stated that, "considering the day focused on one municipality and the beneficiaries of the Judgment can be found in several locations, it provided them with a means of registering after the day, through the Personería [Head Office] of the Municipality where they reside, and also at another special day in the city of Medellín." Finally, the State emphasized that "it is conducting several activities to comply with this measure, which represents a major challenge for the State due to the particular needs of the displaced population."

16. The representatives reported that in meetings to monitor compliance with the measures so ordered by the Court in November 2009, and subsequently in March 2010, "delegates of the Ministry of Defense directly and expressly stated that the public order conditions and security conditions in the Ituango zone were not suitable for the return of the displaced persons." They noted that "currently, the few families left in the area, are those who returned shortly after the facts occurred, left despaired by the poverty and difficult living conditions they had to face in the places they moved to." They stressed that "the State has not even attempted to improve the security situation in the area." Regarding the socio-economic recovery for people unable to return, they said that despite all the activities promoted, facilitated and aided by the representatives of the victims and next-of-kin, including a failed action for protection against Acción Social [Social Action] in September 2009, to date none has been of real help. They also reported that a disciplinary claim against the then National Director of the Agencia Presidencial para la Acción Social [Presidential Agency for Social Action] was filed due to the failure to register victims in the Register of Displaced Persons.

17. The Commission did not submit observations regarding this reparation measure.

18. Regarding the issue, the President notes that this reparation measure comprises two obligations: ensuring the safety of the surviving victims who decide to return to the town of Ituango, and while there are no such security conditions, necessary and sufficient resources should be available to ensure that victims of forced displacement, listed in Annex IV of the Judgment, can resettle in the place that they freely and voluntarily choose, in conditions similar to those in which they resided before the facts occurred<sup>5</sup>. On this basis, the President deems it necessary for the State to report on the measures taken by the various national institutions responsible for compliance with these obligations.

*d) Regarding operative paragraph eighteen of the Judgment*

19. Regarding the obligation to hold a public act to acknowledge responsibility for the facts of the case, the State said it has proposed to the representatives of the victims, on several occasions, that a meeting be held to address the act and other judgment compliance issues, but for various reasons it has not been held, but it was willing come to an agreement with the representatives to "carry out work together that fosters the implementation of this satisfaction measure."

20. The representatives reported that "they acknowledge the State's decision not to perform any acts without the consent and participation of the victims' next-of-kin." They also indicated that "in accordance with the majority position of the relatives and surviving victims [...] no agreement ha[s] been reached regarding the immediate implementation" of this reparation measure. The Court reiterated that it "endorses the decision of the victims

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<sup>5</sup> Cf. *Case of the Ituango Massacres*, *supra* note 7, para. 404.

and their next-of-kin to defer the aforementioned act to a later date and that it acknowledges that the State [...] can [...] come to an agreement with the beneficiaries, through their representatives, on the best time and place to hold the event, without it being interpreted as non-compliance by the State with this specific aspect of the Judgment."

21. The Commission said that "it hopes that obstacles can be overcome."

22. The President notes that the public act of acknowledgment of international responsibility has not been held, although it has been more than four years since it was ordered. In response to information provided by the State and the representatives, the President requested that they provide information about how they could finalize their agreement on the implementation of this measure, in accordance with that set forth in their briefs.

*e) Regarding operative paragraph nineteen of the Judgment*

23. Regarding the obligation to implement a housing program, through which it provides adequate housing to the surviving victims who lost their homes and who require such housing, the State is yet to submit updated information following the issuance of the Order of July 9, 2009.

24. Representatives, meanwhile, said that despite "an existing agreement to pay 135 monthly wages (the current legal minimum in Colombia), one to each of the beneficiaries of the housing program so as to purchase a home," and having met the State requirements for compliance, to date the agreed upon amount has not been distributed to the beneficiaries.

25. The Commission said that "it did not [have] the representatives' observations at its disposal" and therefore did not submit observations on the implementation of the measure.

26. The Presidency considers it necessary that the State provide updated information on the steps taken by the institutions responsible for implementing the agreement that the Court had approved to implement this reparation measure, in accordance with the terms provided for in the Order of July 9, 2009. In this regard, the State shall submit a schedule for the diligences that have been proposed, and the authorities responsible for their implementation, so as to fully implement the reparation measures and the agreement made.

*f) Regarding operative paragraph twenty of the Judgment*

27. With regard to the obligation to install a plaque in a suitable public location in La Granja and El Aro, the State indicated that "through the Supreme Judicial Council it carried out the internal administrative diligences necessary to produce the plaques with the wording suggested by the State." In this regard, it clarified that at the time of carrying out these proceedings, the State had not received any response from the representatives. The State "lament[ed] not having reached an agreement on the issue with representatives of the victims" and said it hoped "to count on their collaboration for the installation of the plaques and the victims' participation in the event." Finally, in October 2009, the State requested "an extension of (3) additional months to install the plaques in El Aro and La Granja," because they are very inaccessible towns due to a lack of transport routes and therefore "it must have sufficient notice so as to allow different institutions to plan the safe transportation of family members and State officials."

28. Representatives clarified that "they did not respond in writing to the State's proposal" because "on several occasions, the issue was mistakenly addressed (verbally) on [its] part as [a reparation measure whose fulfillment was] linked to the public act of "State recognition of responsibility. As for the texts that the State proposed for the content of the plaques, they said that they "seem to be unacceptable due to inconsistencies with what the Court declared as proven in the Judgment of the case, especially regarding the direct participation of members of the Army in the events of El Aro and the involvement of paramilitaries acting together with members of the police in La Granja." The representatives acknowledged that "the State has refrained from imposing a criteria unilaterally" and asked the Court if "the State may -for this particular case and upon agreeing the text- set, with the victims and their next-of-kin through their representatives, the best time and place to install commemorative plaques, without it being interpreted as non-compliance with this aspect of the Judgment."

29. The Commission stated it was important that "obstacles to the appropriate implementation of this reparation measure can be overcome" and that "it is essential that compliance [with the measures] is the product of a consensus between the State and representatives of the aggrieved party, taking into consideration the expectations of the aggrieved party and the reparative spirit behind it."

30. The President reiterates that this satisfaction measure has an important symbolic and reparative value. Consequently, the fact that through the Order of July 9, 2009 the Court clearly indicated that if the representatives made no observations regarding the State's proposal, it would be understood that they agreed, and that the State could continue with its execution. In light of the information recently submitted by the representatives and the State, they are asked to report on the scope of the agreement that will guarantee the steps necessary to comply with this reparation measure, as well as the term within which it shall materialize.

*g) Regarding operative paragraph twenty-two of the Judgment*

31. Regarding the obligation to publish the proven facts in the Official Gazette and in another nationally circulated newspaper, along with the operative paragraphs of the Judgment, the State indicated that on April 28, 2009 the publication of the relevant paragraphs of the Judgment was carried out in the Official State Gazette and a copy of the publication was attached.<sup>6</sup>

32. In this regard, the representatives stated that they did not know whether the State had ordered the publication in the Official Gazette and the Commission "noted the State's compliance with [this] obligation."

33. The President notes that this reparation measure had seemingly been complied with by the State, and thus asked the representatives to submit any observations they may have to the Court.

*h) Regarding operative paragraphs twenty-three and twenty-four of the Judgment*

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<sup>6</sup> Cf. Official Gazette of the Republic of Colombia April 28, 2009, pages 17 to 23. (monitoring compliance record, Volume II, pages 761 to 767)

34. In relation to the request for comprehensive, detailed and specific information, requested by the Court in an Order of 9 July 2009, in order to verify compliance with the obligation to pay the compensation set forth in Annexes I, II and III of the Judgment of July 1, 2006, as pecuniary and non-pecuniary damages, the State indicated that "the acknowledgment of people who were not linked to the [J]udgment came as a result of the Interdisciplinary Group for Human Rights proving, before [the] Ministry, the relationship between the beneficiaries and the victims, pursuant to paragraph 358 of the [J]udgment." In this regard, the State submitted a list which links the names of the beneficiaries and their relationship with the victims provided for in Resolutions issued by the Ministry of National Defense <sup>7</sup> and they were not included in the annexes of the Judgment. Representatives, meanwhile, indicated that they declared that the State had paid the values reported to the Court, "pursuant to Resolutions 5898, 2088 and 1946, 2008, regarding Annexes I and II, regarding Annex III, it has paid the appropriate amounts for pecuniary and non-pecuniary damages, and the Housing Program agreement was pending," although they did not submit the relevant documentation claiming they had no human or material resources to do so. They also stated, in general, "that all information submitted by the State regarding the compensation is correct; however, in order to declare compliance with the measure with regard to Annex III, it must be bore in mind that the housing program is included and it has not yet been fulfilled. "

35. Regarding the alleged lacking of a payment to the next-of-kin of the victim Omar Ivan Gutiérrez Nohava, the State indicated that, when settling the Judgment, seven of the victims' relatives were disregarded since the State, through Resolution 1459 of 12 September 2005, ordered the payment of damages provided for in the settlement, which were greater than the values stipulated in the Judgment of the Court The State indicated that the same situation arose with two relatives of Mr. Othniel de Jesús Tejada, since through Resolution 1458 of December 12, 2005 the payment of damages was ordered, as provided for in the settlement, that exceed the compensation set by the Court.

36. Regarding the claims filed directly before the Court by Marta Marleny Barrera Pino, and which were provided for in considering paragraph 63 of the Order of the Court of July 9, 2009, the State reported that "to date no claim has [been made]." For their part, the representatives reported that they have never represented Marta Marleny Barrera Pino and

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<sup>7</sup> Beneficiaries of the victim William de Jesús Villa García: Dora Elena Villa García, sister, Juan Guillermo Villa García, brother, Lorena María Villa García, sister, Adielia Patricia Villa García, sister, Luz Mariela Villa García, sister, Luis Alfredo Villa García, brother, Marta Lucía Villa García, sister, Olga Cecilia Villa García, sister, William Alejandro Villa Henao, brother (Resolutions 5898 of December 28, 2007 and 1946 of May 19, 2008). Regarding the beneficiaries of María Graciela Arboleda Rodríguez, the State indicated that through Resolution 5898 of December 28, 2007, Resolution 1946 of May 19, 2008, and Resolution 5302 of December 5, 2008, compensation was awarded to: Claudia García Arboleda, daughter, Maribel García Arboleda, daughter, Luis Fernando García Arboleda, son, Yeison Arley García Arboleda, son, María Eloisa Arboleda Rodríguez, sister, Berta Inés Arboleda Rodríguez, sister, María Guillermina Rodríguez, sister, Diana Janett García Arboleda, daughter, and Andrés Ubeimar García Arboleda, son. Similarly, in relation to Mr. Jairo de Jesús Sepúlveda Arias, the State indicated that through Resolution 5898 of December 28, 2007, the State awarded compensation to: Sofía Elvia Sepúlveda Arias, sister, Ligia Amparo Sepúlveda Arias, sister, Ramón Eduardo Sepúlveda Arias, brother, Javier de Jesús Sepúlveda Arias, brother, Luz Mariela Sepúlveda de Meneses, sister, and Olga Lucía Sepúlveda Arias, sister. Regarding the beneficiaries of Mr. Othniel de Jesús Tejada Jaramillo: María Dolores Jaramillo Oquendo, mother, and Danilo de Jesús Tejada, brother, the State indicated that they were not entitled. Regarding the beneficiaries of Mr. Omar Ivan Gutiérrez Nohava: compensation was awarded in Resolution 4713 of 29 October 2008 to the following: Orlando de Jesús Gutiérrez Nohava, brother, Luz Amparo Gutiérrez Pérez, sister, and William de Jesús Gutiérrez Nohava, brother. Regarding the beneficiaries of the victim Dora Luz Areiza Arroyave, through Resolution 5898 of December 28, 2007 compensation was awarded to Uber Arlei Aleiza Arroyave, brother. Regarding the beneficiaries of the victim Omar de Jesús Ortiz Carmona, through Resolution 5898 of December 28, 2007 compensation was awarded to: Oscar Obed Ortiz Carmona, brother, and María del Carmen Ortiz Carmona, sister.

according to the information systems of the contentious jurisdiction, no lawyer has represented her in claims against the State.

37. In relation to the situation reported to the Court regarding Mr. José Marcelino Barrera Sucerquia, and provided for in considering paragraph 64 of Resolution of the Court of July 9, 2009, the representatives informed that once they became aware of the alleged discrepancy of Mr. Marcelino through what he received and the payment made to the Interdisciplinary Group for Human Rights in fees, they directly contacted him to hear his version. In this regard, the representatives informed that Mr. Marcelino explained that another beneficiary, Ms. Rosa Posada, had indicated that in "2005 they had made a payment" and he complained because he had not received a payment. Later, a man contacted Mr. Barrera Sucerquia and he had indicated that he "was going to [send] him a few papers to sign to claim the 2005 money." Finally, with respect to all these discrepancies, the representatives stated that Mr. Barrera Sucerquia said "that [the payment of fees] seemed normal and he did not know that the 2005 payment concerned a claim within the country that he never made." The representatives attached a declaration made before a notary dated March 9, 2010, where the information mentioned by the representatives is contained<sup>8</sup>.

38. In relation to discrepancies regarding the compensation received by the beneficiary Rosa María Posada George, the State indicated that they informed Ms. Posada George through communication OFI08-40 174 of June 9, 2008, the values that were paid for the death of Mr. Marco Aurelio Aleiza. Representatives indicated that Ms. Posada is illiterate, and "driven by hatred and problems with the spouse and children of [Mr.] Aurelio Aleiza - father of her children-, she signed, with a fingerprint, several memorials" sent to the Court "by an unknown person, stating that the lawyer that processed the internal processes did not pay her what she was due." The representatives stated that Ms. Posada was charged 30% as fees, pursuant to a previous agreement, according to the representatives, which the beneficiary does not want to recognize.

39. Furthermore, in connection with Ms. Mercedes Barrera, whose compensation was set out in Resolution 1946 of May 19, 2008 issued by the Ministry of Defense, the State reported that the amount was deposited in a bank account so that the heirs could request its transfer, which, to date, had not happened.

40. In connection with the deposit of the compensation awarded in favor of minors, the State reported that it delivered financial returns generated to the following: Juan Carlos Calle Fernández, Deysi Tatiana Calle Fernández, Johan Daniel Calle Fernández, Cristian de Jesús Calle Fernández, and Juan Felipe Zuleta Cossio. The State also reported that the following persons currently have the capital awarded in their favor and the interest earned: Nelson Adrian Palacio Jaramillo, Francisco Daniel Córdoba, Eliana Julliet Gutiérrez Jiménez, and Juliana Andrea Gutiérrez Jiménez. The State also reported that it paid the values awarded to: William Alejandro Villa Henao, Omar Alveiro Calle Fernández, Carlos Adrian Zuleta Cossio, Julio Oliver Perez Pastaza, as they were legal adults. The representatives did not refer in particular to the information provided by the State.

41. The Commission did not submit observations regarding this point.

42. The Presidency notes that, according to information submitted by the State and the representatives, it seems to have complied with the execution of payments, but it is still

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<sup>8</sup> Cf extra-procedural statement No. 00.1641 of March 9, 2010 rendered by Mr. José Marcelino Barrera Sucerquia. (monitoring compliance record, Volume III, pages 1177 and 1178 )

necessary for representatives to clarify the fee rates on payments and to determine whether it has fully complied with this reparation measure. Consequently, the State and the representatives are asked to submit updated and detailed information in this regard, including the supporting documentation that appropriately attests the information provided.

*i) The request for the authorization of payment of up to 30% for home purchases in favor of three children*

43. Through Order of May 25, 2010, the Court authorized " the transfer of up to thirty percent (30%) of the compensation to the three children of Ms. María Olive Calle (Deisy Tatiana, Johan Daniel and Cristian de Jesús Calle Fernandez), child victims in this case. Such payment would be received by Ms. Calle, as the mother of the aforementioned minors, specifically to purchase a home," according to the first operative paragraph of the Order ( *supra* Having Seen 8).

44. Representatives and the State jointly requested the Court to authorize the payment of "approximately USD 2.000, to [ensure] the acquisition of housing for the said minors." The State in turn supported the representatives' initiative aimed at increasing the percentage given to Ms. Calle as part of the amount requested, equivalent to approximately two thousand (U.S. 2000) United States Dollars," and stated that "the additional amount requested to acquire housing cannot be paid by the State without a prior Order of the [Court] authorizing it to do so."

45. Regarding the Commission it said it had no observations .

46. Given the Order of May 25, 2010 and the parties' statements, the President considers it appropriate to request the State to proceed immediately, pursuant to the terms agreed, to complete the acquisition of the property on behalf of minors Deisy Tatiana, Johan Daniel and Cristian de Jesús Calle Fernández. The State and the representatives are requested to provide updated information to the Court in this regard .

*j) Call to a hearing*

47. At this monitoring compliance with the Judgment stage, the President considered it appropriate to convene a closed hearing for the Court to receive, in accordance with the provisions of Article 69 of its Rules of Procedure, complete and detailed information from the State on compliance with the reparation measures so ordered in the Judgment and to listen to the respective observations from the Inter-American Commission and the representatives.

**THEREFORE:**

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

in exercising its authority to monitor compliance with its decisions in accordance with Articles 33, 67, and 68(1) of the American Convention on Human Rights, Article 24(1), 25(1) and 25(2) of the Statue, and Article 4, 15(1), 31 and 69 of its Rules of Procedure,

**AND RESOLVES:**

1. To convene the Inter-American Commission on Human Rights, representatives of victims and the State of Colombia to a private hearing to be held at the headquarters of the Court on February 26, 2011, between 11:00 and 12:30 hours, as part of the XC Ordinary Session of the Tribunal, to obtain information from the State on compliance with the reparation measures ordered in the Judgment in this case, and listen to the observations of the Inter-American Commission and representatives of the victims.
2. To request the Secretariat to notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the victims and next-of-kin.

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary