

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MAY 15, 2011**

**CASE OF VALLE JARAMILLO v. COLOMBIA
MONITORING COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The Judgment on Merits, Reparations, and Costs (hereinafter "the Judgment") issued by the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal") on November 27, 2008, whereby in Operative Paragraph 19 the Court ordered that "[t]he State provide Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa with a grant, within one year following the date of notification of the [...] Judgment, to study or learn a trade [...]."
2. The Interpretation of the Judgment on Merits, Reparations and Costs (hereinafter "the Interpretation of the Judgment") passed down on July 7, 2009.
3. The Order handed down by the President of the Inter-American Court of Human Rights (hereinafter "the President of the Court") on December 21, 2010, whereby the parties were convened to a private hearing on compliance with the reparation measures ordered in the Judgment (*supra* Having Seen 1).
4. The private hearing held at the Court's seat in San José, Costa Rica on February 25, 2011.
5. The Order on Monitoring Compliance with Judgment issued by the Court on February 28, 2011, whereby, *inter alia*, the Court "positively valu[ed] the State's willingness and readiness to participate in dialogue and reach an agreement with the representatives in order to implement Operative Paragraph 19 of the Judgment," and, it also "deem[ed] the approval of an agreement between the representatives of victims and the State to be feasible," for which "it await[ed] documentation of the specific terms of the agreement so as to begin considering and possibly approving it."
6. The Republic of Colombia's (hereinafter "the State" or "Colombia") brief of March 17, 2011, which was written together with the representatives of the victims (hereinafter "the representatives"), whereby they requested that the Court "approve the agreement reached between the parties" regarding Ms. Nelly Valle Jaramillo with regard to the reparation measure provided for in Operative Paragraph 19 of the Judgment (*supra* Having Seen 1).

7. The note of the Secretariat of May 21, 2010, whereby, following the instructions of the President of the Court, the parties were asked to submit the approval request to the Court (*supra* Having Seen 6).

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" or "the Convention") since July 31, 1973, and it acknowledged the compulsory jurisdiction of the Court on June 21, 1985.

3. In accordance with the provisions of Article 67 of the American Convention, the State should fully comply with the Court's Judgments. Furthermore, Article 68(1) of the American Convention stipulates, "[t]he State Parties to the Convention undertake to comply with the Court's decisions 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.¹

4. The obligation to comply with the Tribunal's rulings conforms to a basic principle of international law, supported by international jurisprudence, under which States must abide by their international treaty obligations in good faith (*pacta sunt servanda*) and, as set forth by this Court and in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for domestic reasons, neglect their pre-established international responsibility.² The treaty obligations of State Parties are binding on all branches and bodies of the State.³

5. The States Parties to the Convention must ensure compliance with its conventional provisions and their effectiveness (*effet utile*) within their respective domestic legal systems. This principle applies not only to the substantive provisions of human rights treaties (i.e., those addressing protected rights), but also to procedural provisions, such as those concerning compliance with the Court's decisions. These obligations should be interpreted and enforced in such a manner that the protected

¹ Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60; *Case of Tibi v. Ecuador. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of March 3, 2011, Considering Clause 3, and *Case of Valle Jaramillo v. Colombia. Monitoring compliance with Judgment*. Order of the Inter-American Court of Human Rights of February 28, 2011, Considering Clause 3.

² Cf. *International responsibility for the issuance and application of laws that violate the Convention* (Art. 1 and 2 of the American Convention on Human Rights). Advisory Opinion AO-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of Tibi v. Ecuador*, *supra* note 1, Considering Clause 4, and *Case of Valle Jaramillo v. Colombia*, *supra* note 1, Considering Clause 4.

³ Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 17, 1999, Considering Clause 3; *Case of Tibi v. Ecuador*, *supra* note 1, Considering Clause 4, and *Case of Valle Jaramillo v. Colombia*, *supra* note 1, Considering Clause 4.

guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁴

6. By means of the brief of March 17, 2011 (*supra* Having Seen 6), the Director of Human Rights and International Humanitarian Law for the Ministry of Foreign Affairs and a representative of the Interdisciplinary Group for Human Rights, in unison and “with the aim of moving forward with the compliance of the [...] reparation measure,” requested that the Court “approve the agreement reached between the parties” regarding Ms. Nelly Valle Jaramillo in relation to Operative Paragraph 19 of the Judgment (*supra* Having Seen 1), in the following terms:

[...] the grant that must be given to Ms. Nelly Valle Jaramillo be provided to her son, Luis Fernando Montoya, who is presently enrolled in a master’s degree program in economic law at the Universidad Externado of Colombia in the city of Bogotá. To this end, the parties agree that the costs of tuition and living costs will be covered, which in total amount to forty-three million Colombian pesos (\$43,000,000.00)

The grant shall be paid in two payments, in the following manner: the first payment of twenty-one million, five-hundred thousand Colombian pesos (\$21,500,000.00) shall be made within three months following the date the Court gives notice of the approval of the agreement, and upon presentation of receipts showing payment of the first year of the master’s program. The second payment of twenty-one million, five hundred thousand Colombian pesos (\$21,500,000.00) shall be made within a month, upon proof of payment of the final year of the master’s program. There will not be any additional requirements for payment of the agreed upon amount.

Expenses for tuition and living costs will be deposited into the student’s bank account.

7. Firstly, the Tribunal notes that in Operative Paragraph 19 of the Judgment (*supra* Having Seen 1), it ordered the State to “provide Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa [...] with a grant to study or learn a trade.” In this regard, in the Interpretation of the Judgment, the Court considered, with regard to the representatives’ query as to whether the grants for Carlos Fernando Jaramillo Correa and Nelly Valle Jaramillo could be transferred to their children, that “Operative Paragraph 19 clearly orders that the grant be given to Mr. Jaramillo Correa and Ms. Valle Jaramillo.”⁵ However, based on a query made by the State as to whether it would be possible to provide the beneficiaries with a financial subsidy in order to comply with this measure, the Court observed that paragraph 227 of the Judgment (*supra* Having Seen 1) indicates that the State committed to undertake this reparation measure “after consulting with the victims.” Therefore, the Court deemed that the issues raised in the State’s query should be dealt with by the State directly and, when appropriate, by the Tribunal as part of the process of monitoring compliance with the Judgment.⁶

8. By virtue of the foregoing, the Court will analyze the agreement presented by the parties only insofar as it refers to Ms. Nelly Valle Jaramillo. However, the Court recalls that the reparation prescribed in Operative Paragraph 19 of the Judgment is also for the benefit of Carlos Fernando Jaramillo Correa. In this regard, the Court notes with emphasis the willingness and readiness to enter into dialogue and reach an agreement

⁴ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgement of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37; *Case of Tibi v. Ecuador*, *supra* note 1, Considering Clause 5, and *Case of Valle Jaramillo v. Colombia*, *supra* note 1, Considering Clause 5.

⁵ Cf. *Case of Valle Jaramillo et al. v. Colombia. Interpretation of Judgment on Merits, Reparations and Costs*. Judgement of July 7, 2009, Series C. No. 201, para. 40.

⁶ Cf. *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 5, para. 37.

that both the representatives and the State have shown during the process of monitoring compliance with this aspect of the Judgment.⁷ Likewise, the Court is aware that in the framework of this dialogue, the representatives expressed that Ms. Nelly Valle Jaramillo is “in neither the physical nor the emotional state to begin a course of academic study.”⁸ For its part, the State made known its willingness to “fulfill this reparation measure and remedy, in some way, the suffering and needs that [this beneficiary] has faced.”⁹

9. Regarding the approval of the agreement reached between the parties (*supra* Considering Clause 6), the Court takes into consideration the comments made by the State and the representatives. In this respect and considering the particular needs of Ms. Nelly Valle Jaramillo, which justifies the request, the Tribunal values that the State has agreed to allow an alternative reparation measure. Furthermore, the request is based on the consent, consensus, and good faith that are evident in both parties’ willingness.

10. Thus, given the specific circumstances described (*supra* Considering Clauses 8 and 9), and considering the agreement reached between the State and the representatives, wherein the parties clearly stated the amount of the grant, its beneficiary, and the method of payment, the Court deems that, under the present monitoring process, the agreement between the parties is appropriate, as a means of complying with Operative Paragraph 19 of the Judgment as far as Ms. Nelly Valle Jaramillo is concerned (*supra* Considering Clause 6). In this respect, it is the Court's responsibility to continue monitoring compliance with this measure until it is fully satisfied.

11. The Court positively values the State and the representatives’ willingness to enter into dialogue and reach an agreement in order to achieve the alternative compliance of this aspect of the Judgment, which is a positive contribution on Colombia's behalf in favor the victims of the present case. Given the agreement implies the adoption of steps or actions on the part of both the State and the beneficiary to achieve compliance, the Court requests that the parties provide information on the steps taken to ensure delivery of the grant to Luis Fernando Montoya, son of Ms. Nelly Valle Jaramillo, in order to evaluate the possible compliance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercising its authority to monitor compliance with its decisions, in accordance with Articles 33, 62(1), 67, and 68(1) of the American Convention on Human Rights, Articles 24 and 30 of the Statute, and Articles 31(2) and 69 of its Rules of Procedure,

DECLARES:

⁷ Cf. *Case of Valle Jaramillo et al. v. Colombia. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of December 21, 2010, Considering Clause 33, and *Case of Valle Jaramillo v. Colombia*, *supra* note 1, Considering Clause 37.

⁸ Cf. *Case of Valle Jaramillo et al. v. Colombia. Monitoring Compliance with Judgment*. Order of the President of the Court, *supra* note 7, Considering Clause 31.

⁹ Cf. *Case of Valle Jaramillo et al. v. Colombia. Monitoring Compliance with Judgment*. Order of the President of the Court, *supra* note 7, Considering Clause 30, and *Case Valle Jaramillo v. Colombia*, *supra* note 1, Considering Clause 34.

1. In accordance with the provisions of Considering Clauses 6 through 11 of the present Order, the Court will monitor compliance with the agreement reached between the State and the representatives through the procedure for monitoring compliance regarding the following obligation pending fulfillment:

a) To provide Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa with a grant to study or learn a trade (*Operative Paragraph Nineteen of the Judgment*).

AND RESOLVES:

1. To continue supervising the Operative Paragraphs still pending fulfillment in the Judgment on Merits, Reparations, and Costs passed down by the Tribunal on November 27, 2008.

2. To request that the State of Colombia present the Inter-American Court of Human Rights, by October 17, 2011, with a report indicating the steps taken towards the actual delivery of the grant to Luis Fernando Montoya, son of Ms. Nelly Valle Jaramillo, in accordance with the provisions of Considering Clauses 7 through 11, as well as Declarative Paragraph 1 of the present Order, as well as all measures taken to comply with the reparations measures ordered by this Court that are outstanding, in accordance with the provisions of Declarative Paragraph 2 of the Order of the Court of February 28, 2011.

3. To request that the representatives and the Inter-American Commission on Human Rights submit their observations on the State report mentioned in the previous operative paragraph, within four and six weeks respectively, following notification of said report.

4. To request that the Secretariat notify this Order to the State of Colombia, the Inter-American Commission on Human Rights and the representatives of the victims.

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary