

ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 22, 2013
CASE OF JUAN HUMBERTO SÁNCHEZ v. HONDURAS
MONITORING COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The Judgment on preliminary objection, merits, reparations and costs (hereinafter "the Judgment") delivered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court" or "this Court") on June 7, 2003, in this case.
2. The orders on monitoring compliance with the Judgment issued by the Court on November 17, 2004, September 12, 2005, November 21, 2007, and February 20, 2012. In the last order, the Court decided that it would keep the procedure of monitoring compliance open with regard to the pending elements in this case:
 - a) "Pay the compensation ordered for non-pecuniary damage in favor of Julio Sánchez" (*subparagraph (h) of the ninth operative paragraph of the Judgment*);
 - b) "Continue investigating the facts of this case; identify the perpetrators and the masterminds as well as any eventual accessories after the facts, and impose the administrative and criminal penalties, as appropriate; that the next of kin of the victim must have full access and legal standing at all stages and in all instances of the said investigations, pursuant to domestic law and the provisions of the American Convention on Human Rights, and that the results of the investigation must be published" (*tenth operative paragraph of the Judgment*), y
 - c) "Implement a system to register detainees that allows the legality of detentions to be monitored" (*twelfth operative paragraph of the Judgment*).
3. The reports on compliance with the Judgment presented by the State on May 22, 2012, and February 26, June 6 and 28, 2013, and their annexes.
4. The briefs of June 18, 2012, and April 1, June 5 and July 12, 2013, and their respective annex, in which the representatives of the victims (hereinafter "the representatives") presented their observations on the State's reports.
5. The briefs of July 2, 2012, and April 25 and July 26, 2013, in which the Inter-American Commission on Human Rights (hereinafter "the Commission") submitted its observations on the State's reports and on the information presented by the representatives.
6. The notes of the Secretariat of April 17, 2013, in which the President of the Court convened the parties and the Commission to a private hearing on monitoring compliance with the Judgment.

7. The arguments of the parties and of the Commission at the private hearing on compliance with the pending aspects of the Judgment held at the seat of the Court on May 23, 2013.¹

CONSIDERING THAT:

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. In this case, three measures of reparation ordered in the Judgment remain pending compliance (*supra* having seen paragraph 2). Nevertheless, owing to a request of the parties (*infra* considering paragraphs 4 and 5), in this Order the Court will only analyze the arguments concerning payment of the compensation ordered for non-pecuniary damage in favor of Julio Sánchez. The Court will examine and rule on compliance with the other two pending measures of reparation in due course.

3. Regarding the payment of the compensation to Julio Sánchez, the Court takes note that, according to the parties and the Commission, Mr. Sánchez is disappeared. In this regard, the Court recalls that, in the Order of November 21, 2007, it considered that “compliance with this obligation is directly related to the information that the representatives of the victim must present concerning the procedure to declare the presumed death of Julio Sánchez and the corresponding inheritance process.”²

4. During the private hearing held in this case (*supra* having seen paragraph 7), the State indicated that “the mandate of the Judgment and the provisions that regulate the institutions of the financial system with regard to the identification of the client for the purposes of the deposit have not allowed the State to deliver the amount corresponding to the compensation for Julio Sánchez through the banking system.” Thus, Honduras proposed to consign the amount owed to the Court, so that, subsequently, the representatives could withdraw the money. In addition, following the hearing, the State also indicated that it could deposit the compensation in the account of one of the organizations representing the victim, “provided that the Inter-American Court [...] issues an Order deciding [this].”

5. The representatives expressed their agreement to the State’s offer. In this regard, they presented the banking information of COFADEH, one of the organizations that represent the victims in this case, “in order to facilitate payment of the compensation.” They indicated that, “when it has received the compensation, [the organization] undertakes to deliver the amount to the sole heir of Julio Sánchez, [his mother, María] Dominga Sánchez.” In addition, it asked the Court “to issue an order pursuant to the request of the State of Honduras.”

6. The Commission emphasized that “both parties have asked the Court to issue an order allowing the deposit to be made in the account indicated by the representatives”; consequently, it “consider[ed] that the order that the [...] Court eventually issues will make a positive contribution to definitive compliance with this aspect of the Judgment.”

¹ Under Article 6 of the Rules of Procedure, the Court held the private hearing with a team of judges composed of: Diego García-Sayán, President, Alberto Pérez Pérez and Eduardo Ferrer Mac-Gregor Poisot. At this hearing, the following also appeared: for the Inter-American Commission on Human Rights: Silvia Serrano Guzmán, adviser; for the representatives of the victims: Mery Agurcia, Marcia Aguiluz, Paola Limón, Sergio Pacheco and Léa Gaudry, and for the State of Honduras: Ethel Suyapa Deras Enamorado, Attorney General; Maura Jacqueline Portillo, Principal Consultant, and Jhon Cesar Mejía, Prosecutor attached to the La Esperanza Prosecution Service, Intibucá.

² *Case of Juan Humberto Sánchez v. Honduras. Monitoring compliance with judgment.* Order of the Court of November 21, 2007, eleventh considering paragraph, subparagraph (a).

7. The Court observes that, despite the State's willingness, it has not been possible to pay the compensation ordered in the Judgment in favor of Julio Sánchez (*supra* considering paragraph 4). The Court recalls that the Judgment decided that "if, for any reason, it is not possible for the beneficiaries to receive the respective payments within twelve months, the State must deposit the corresponding amounts in favor of these beneficiaries in an account or certificate of deposit, in a solvent financial institution, in United States dollars or the equivalent in Honduran lempiras, in the most favorable financial conditions permitted by banking practice and law. If, after ten years, the payment has not been claimed, the amount shall be returned to the State with the interest accrued."³

8. However, this Court takes notes of the impossibility of making the bank deposit in the terms established in the Judgment, according to the information provided by the State that was not contested by the representatives, and also that the parties and the Commission agree that the said payment be made to the sole heir of Julio Sánchez, María Dominga Sánchez, through COFADEH, owing to these circumstances (*supra* considering paragraphs 4, 5 and 6).

9. Consequently, taking into account the agreement between the parties and the opinion of the Inter-American Commission (*supra* considering paragraphs 4, 5 and 6), the Court finds it pertinent, in this case, that the State pay the compensation corresponding to Julio Sánchez to María Dominga Sánchez, through the representatives, COFADEH, in order to facilitate compliance with subparagraph (h) of the ninth operative paragraph of the Judgment. Thus, this Court requires that, by December 1, 2013, at the latest, the State deposit in the COFADEH bank account the sum of US\$5,000 (five thousand United States dollars) or the equivalent in Honduran lempiras, using the exchange rate between the two currencies in force on the New York Stock market, United States of America, the day before the payment.⁴ For its part, COFADEH must deliver the said payment, within 15 days of its deposit, to María Dominga Sánchez and advise the Court promptly that the payment has been delivered.

10. Lastly, the Court finds it pertinent to indicate that it appreciates the effort made by the State in order to make progress in complying with the Judgment, which is revealed by its willingness to make the payment corresponding to Julio Sánchez. Pursuant to its authority under the Convention and the Rules of Procedure, the Court will continue the procedure of monitoring compliance with the Judgment in the terms established in considering paragraphs 2 and 9.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions under Articles 33, 62(1), 62(3) and 68(1) of the American Convention on Human Rights, 30 of its Statute and 31 and 69 of its Rules of Procedure,

DECIDES THAT:

1. The Republic of Honduras must pay the compensation corresponding to the heir of Julio Sánchez through the representatives, COFADEH, in the terms of considering paragraph 9 of this Order.

³ *Case of Juan Humberto Sánchez v. Honduras. Preliminary objection, merits, reparations and costs.* Judgment of June 7, 2003. Series C No. 99, para. 198.

⁴ *Cf. Case of Juan Humberto Sánchez v. Honduras. Preliminary objection, merits, reparations and costs, supra*, paras. 177 and 197.

2. It will continue monitoring the measures pending compliance of the Judgment on preliminary objection, merits, reparations and costs of June 7, 2003, in accordance with the Order of February 20, 2012, and considering paragraphs 2 and 9 of this Order.

3. The Republic of Honduras must adopt all necessary measures to comply promptly and effectively with the pending aspects, pursuant to the Order of February 20, 2012, and considering paragraphs 2 and 9 of this Order, as stipulated in Article 68(1) of the American Convention on Human Rights.

4. The Republic of Honduras must present a report to the Inter-American Court of Human Rights, by December 10, 2013, at the latest, indicating all the measures taken to comply with subparagraph (h) of the ninth operative paragraph of the Judgment, in the terms of considering paragraph 9 of this Order.

5. The representatives of the victims and the Inter-American Commission on Human Rights must present observations on the State's report mentioned in the preceding operative paragraph within two and four weeks, respectively, of receiving it.

6. The Secretariat of the Court is required to notify this Order to the Republic of Honduras, the Inter-American Commission, and the representatives of the victims.

Diego García-Sayán
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto de F. Caldas

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary